Rajan Khatiwoda

Homicide Law in 19th-Century Nepal
A Study of the Mulukī Ains and Legal Documents
Homicide Law in 19th-Century Nepal
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Homicide Law in 19th-Century Nepal

A Study of the Mulukī Ains and Legal Documents

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Cover illustration: A folio from a Muluki Ain manuscript. The text on it, containing
the opening paragraphs of a section on homicide, belongs to one of the versions
of the Ain prepared between 1865 and 1870. This, along with several other folios
from the manuscript, is currently in the possession of the Research Unit: Docu-
ments on the History of Religion and Law of Pre-modern Nepal.

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Abbreviations

ĀpDhS  Āpastambadharmasūtra
BhV  Bhāṣāvaṃśāvalī
cBS  Central Bureau of Statistics
Conj  Conjecture
DivU  Divyopadeśa
Emend  Emendation
Exp/s  Exposure/s
Fol/s  Folio/s
GDhS  Gautamīyadharmasūtra
JBR  Jaṅga Bahādura Rānā
cBS  Jāṅgabahāduriṣṭhiti
JM  Jātimālā
MA  Mulukī Ain
MA-ED3  Mulukī Ain edition of 1870, 2nd amendment
MA-ED-7A  Mulukī Ain including the 7th amendment, published by Kānūna Kitāba Vyavasthā Samiti in 1981 (VS 2038)
MA-ED-9A  Mulukī Ain including the 9th amendment, published by Kānūna Kitāba Vyavasthā Samiti in 1990 (VS 2047)
MA-ED-10A  Mulukī Ain including the 10th amendment, published by Kānūna Kitāba Vyavasthā Samiti in 1994 (VS 2051)
MDh  Mānavadharmaśāstra (a.k.a. Manusmṛti)
MS1  Manuscript of the Mulukī Ain of 1854
MS2  Manuscript of the Mulukī Ain of 1870
MW  Monier-Williams, Sanskrit-English Dictionary
NAK  National Archives, Kathmandu
NārSm  Nāradasmṛti
NBhV  Nepālikabhūpavamśāvalī
NBŚ  Nepālī Brhat Śabdakośa
NGMPP  Nepalese-German Manuscript Preservation Project
NS  Nepāla Samvat
NyāV  Nyāyavikāsinī
PiSmr  Pitāmahasmṛti
R-Ain  The Ain originally formulated by Raṇoddīpa in VS 1936 and extended by Vīra Samsera in VS 1942
RŚEdict  The edicts of Rāma Śāha
T  Turner, A Comparative and Etymological Dictionary of the Nepali Language
UjAin  Ujīra Simhako Ain
VDhS  Vasiṣṭhadharmasūtra
VS  Vikrama Saṃvat
YDh  Yājñavalkyadharmaśāstra
Foreword by Saubhagya Pradhananga

The National Archives of Nepal, established in 1967, functions as the officially designated government entity tasked with the curation and conservation of the nation’s archival records. Operating in accordance with the Archives Preservation Act of 1989, it has as its core responsibilities collecting, preserving, and facilitating public access to significant manuscripts and documents. Collaborations with both national and international organizations have culminated in the establishment of a network of partnerships.

A prominent example of such collaboration lies in its association with Germany, which resulted in the successful execution of the Nepal-German Manuscript Preservation Project, followed by the Nepalese-German Manuscript Cataloguing Project. In 2018, the Heidelberg Academy of Sciences and Humanities initiated the publication series Documenta Nepalica, aimed at accentuating the importance of Nepal's document heritage for historical research in South Asia and beyond, thus igniting scholarly interest in the country's abundant archival sources.

This volume constitutes a crucial addition to the comprehension of Nepalese legal history, focusing on the study of the articles on homicide extracted from the 1854 and 1870 Mulukī Ains. Accompanied by an analysis of contemporaneous legal documents, the study significantly contributes to the understanding of homicide law during the pre-modern era in Nepal. The National Archives of Nepal safeguards not only the oldest extant manuscript of the Ain but also manuscripts or prints of subsequent amended versions. Undoubtedly, this publication will serve as an indispensable resource for those seeking to grasp the intricate role of law in shaping modern Nepal as a nation-state.

Saubhagya Pradhananga

Director General
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*Mrs. Pradhananga is now the Director General of the Department of Archaeology.
This book, a revised version of the doctoral dissertation I submitted to Heidelberg University's Faculty of Philosophy in March 2017 and defended in May 2017, represents the culmination of a four-year research project (2013–2017) supported by the Cluster of Excellence “Asia and Europe in a Global Context” under the German Universities Excellence Initiative.\(^1\) The main ambition of the work lies in a comprehensive investigation into the formation and implementation of the (Mulukī) Ain of 1854, a foundational legal code with constitutional attributes. Central to this examination is the detailed editing and translation of the articles pertaining to homicide within both the Mulukī Ain of 1854 and its successor, the Mulukī Ain of 1870. These analyses are juxtaposed with relevant contemporaneous legal and administrative documents, with the aim of providing a robust and contextual understanding of the legal framework. In essence, this study endeavours to serve as a scholarly resource, shedding light on the intricate role of legal systems in shaping modern Nepal's identity as a nation-state, while concurrently delving into the legal evolution and transformation that characterized the 19th-century landscape.

I would like to express my heartfelt gratitude to Prof. Dr. Axel Michaels, my supervisor and mentor, without whom the completion of this work would not have been possible. He has been instrumental to my work in virtue of his vast knowledge of Hindu legal traditions, Nepalese legal history, and deep critical thinking within academia. Furthermore, I am immensely grateful to him for extending an invitation to Germany, allowing me to pursue my doctoral studies here. I am indebted to him not only for his countless suggestions and enlightening comments on all sections of this work but also for his significant contributions to the field of Nepalese studies as a whole.

I am also deeply indebted to Prof. Dr. Martin Gaenszle for his evaluation of my dissertation and insightful suggestions for its improvement. The final result has been accepted by Prof. Dr. Barbara Mittler, head of the advisory board of the Research Unit: Documents on the History of Religion and Law of Pre-modern Nepal, for publication in the Documenta Nepalica book series, for which I am truly grateful.\(^2\)

The completion of this work would not have been possible without the inspiration and unwavering support of my dear friends Dr. Manik Bajracharya and Dr. Simon Cubelic. I express special thanks and deep appreciation to them for their invaluable presence throughout this journey, which made the realization of this book possible. Furthermore, I would like to acknowledge with gratitude Dr. Astrid Zotter and Dr. Christof Zotter (along with their sons), who not only provided valuable and constructive suggestions on my work but also warmly welcomed me as a member of their family during my initial days in Germany.

My sincere thanks also go to Prof. Bhim Kandel and my friend Dr. Nirajan Kafle each for their teaching of Sanskrit over the years. Nirajan, in particular, has been an unwavering source of support throughout my personal, student, and professional life, for which I am deeply appreciative. I am indebted to him for his careful reading of and corrections to the final draft of this publication. I extend my gratitude, too, to the late Dr. Albrecht Hanisch and to Anna Hanisch for their constant inspiration.

I would like to acknowledge the support and helpful suggestions of Dr. Dikshya Karki and Dr. Ramhari Timalsina during my research. Special appreciation goes to Sonam Dechen Gurung, Philip Pierce, and Michael M.B. Zrenner for their valuable contributions in reviewing the English. I am particularly grateful to Philip Pierce for his meticulous proofreading and critical comments, which greatly enhanced the quality of this publication.

I express my gratitude to the National Archives, Kathmandu, and its chief, Saubhagya Pradhanang, for granting me access to the historical documents preserved in NAK. The documents discussed in this work are among those featured in the research project “Documents on the

\(^2\) Note that Prof. Dr. Axel Michaels and Prof. Dr. Martin Gaenszle carefully reviewed the successive drafts of this work during the dissertation evaluation process and its subsequent preparation for publication. Their generously supplied expert knowledge significantly rectified many structural and factual issues present in the earlier draft and helped to give shape to the final version. Whatever errors and shortcomings may persist are solely my responsibility.
History of Religion and Law of Pre-modern Nepal.” I am thankful for
the support received from this project in advancing the understanding
of Nepalese religious and legal history.

I want to express my profound gratitude to the Nepal-German Manu-
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deepening my knowledge in manuscriptology. Therefore, I am extremely
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the project.

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Rajan Khatiwoda
Part I

Formation and Enforcement of the *Mulukī Ain*
1 Introduction

“[N]ew ways of thinking about society, sovereignty and law”¹ do not appear only by way of intellectual discourse. They also continuously emerge within contemporary political culture, either as part of domestic institutional practices or of global social and political developments.² Such processes should be scrutinized for typology, and for the actual impact they have exerted upon the historical development of the political culture they emerge from. In recent pre-modern Nepalese history, an epoch-making transformation of context-sensitive normative legal practice into a well-defined and operative code of law occurred with the promulgation of the Mulukī Ain (hereafter MA, Ain or Ain of 1854) in 1854. It was Jaṅga Bahādura Rāṇā (1817–1877) who conceived of and initiated the formulation of a standardized binding national code meant to replace the unregulated and locally diverse legal practices of his period by uniting administrative and social, as well as legal practices, within a single governing framework. Although Nepal directly bordered on British India and on China (through Tibet), it was among the few kingdoms in the region that remained autonomous, and indeed maintained its independence from both British India and China. Thus, free from direct foreign interference, the country could define its own social and legal practices as what they conceived of as the last remaining Hindu kingdom of a supposedly ‘degenerate era’ (kaliyuga). This renders it an especially interesting case for the study of both traditional legal practices and Hindu law, which, as stated by B.H. Hodgson, “might puzzle the Shastrís to explain on Hindú principles.”³

The legal practices in Nepal prior to the mid-nineteenth century lack clear traceability, although there is evidence suggesting sporadic attempts to document such practices in written form since the fourteenth century.⁴ The Nyāyavikāsinī (hereafter NyāV), commissioned by

2 See ibid. 23.
3 Hodgson 1874: 39.
4 The legal history of Nepal will be presented below (Part I, 1.3).
King Jaya Sthiti Malla (r. 1382–1395) in the late fourteenth century, represents an initial step towards a comprehensive written law. Written in Sanskrit and Newari, it laid the foundation for further legal development. During the period between unification in 1768 and the rise of the Rāṇā regime in 1846, the king held supreme authority over all matters, supported by royal priests (rājaguru), members of the royal assembly (bhāradārī-sabhā), and various other state and local officials. With the exception of inscriptions, edicts, and administrative documents, legal texts in Nepal until the mid-nineteenth century were primarily based on customary practices or Hindu legal scriptures, adapted with modifications, under the umbrella of divine kingship. The Śāha rulers’ centralized government and executive power provided a solid foundation for the establishment of concrete administrative and judicial institutions and the appointment of officials to fill these roles. For instance, the organization and structure of courts, including the Council, Sadar Courts, and District Courts, aimed to enhance control and governance over the provinces. The transition of executive powers from the king to the Rāṇā aristocracy in 1846 marked a pivotal moment in Nepalese administrative and legal history. This event paved the way for the promulgation of the Mulukī Ain, a unified legal code. Initiated by Jaṅga Bahādur Rāṇā and enacted during the reign of King Surendra Śāha (r. 1847–1881), the MA went into effect on January 6, 1854 (the 7th day of the bright fortnight of Pauṣa, VS 1910). Although the sources of this significant text, composed in vernacular Nepali, encompassed pronouncements of customary law and the dharmaśāstras, they were also decisively influenced by novel political ideas, including the concept of the ‘rule of law’. The territorial divisions and legal institutions depicted in the MA reflected close interactions with the Company State, particularly Calcutta, where Nepal stationed ambassadors and envoys, as well as with the Western world. Jaṅga Bahādur Rāṇā, having been the

5 This text will be discussed below (Part I, 1.3.2).
6 A preceptor or guru to a member of the royal family.
8 According to J. Fezas, the mentioned date given in the Vikrama Era is equivalent to 1853 Common Era (Fezas 2000: xx). A. Höfer converted this date to 6 January 1854 (Höfer 2004: 3), and A. Michaels to 5 or 6 January 1854 (Michaels 2005b: 7). The 6th of January seems to be accurate (see http://www.cc.kyoto-su.ac.jp/~yanom/cgi-bin/paw314.cgi, last accessed on 01 May 2016). See Khatiwoda, Cubelic & Michaels 2021: 2.
9 See M. Bajracharya, Cubelic & Khatiwoda 2016 and 2017 for a detailed discussion of the role of envoys stationed in Calcutta based on original sources in Nepali.
first prime minister of Nepal to visit London and Paris, encountered the British and French legal systems. The present study topologizes major problems and points of interest emerging from this first full-fledged legal codification undertaken in Nepal.

1.1 Core Questions

Until the first half of the nineteenth century, Nepal lacked a robust and functional state-led judicial system, as well as the trained ruling elites or a bureaucratic apparatus capable of implementing a codification project. Additionally, there was no colonial power pushing for such a codification. In this context, the MA stands out as a comprehensive law code with wide-ranging implications, encompassing civil and penal regulations that addressed not only the emerging concept of the nation-state and norms of international diplomacy but also a broad array of social practices. This raises a fundamental question: What were the primary factors that led to the codification of the MA? Despite K. K. Adhikari's argument, the origins of the idea to draft such a code in the isolated region of Nepal have largely remained unanswered. Therefore, the primary objective of this volume is to shed light on the driving forces behind the promulgation of the MA. By examining historical evidence and engaging with relevant scholarship, this study seeks to provide a better understanding of the motivations and circumstances that contributed to the codification of this significant legal document.

Secondly, broadly speaking, scholars who have contributed studies on Nepalese political and social history have developed two different theories about the nature of the Rāṇā polity. The first one, in line with the Hindu rājyāṅga theory of R. Kangle, classifies nineteenth- and twentieth-century Nepal as a Hindu kingdom, which was strongly influenced by concepts of divine kingship, according to which the king was believed to be an embodiment of Viṣṇu who had the ultimate right

10 See Adhikari 1976, 1979 and 1984. Adhikari (1976: 107), for example, opines: “[…] the Ain as a whole was partially customary, yet partially written with the times when it was laid out.”

11 See Kangle 1988 [vol. 1 (6.1.1); vol. 3]: 127 for what he considers the main features of a Hindu state, namely a king with the status of divinity, his kingdom, his subjects and normative practices.
of controlling his officials and meting out punishment at will. The second (and contrary) approach focuses on the Rāṇā regime’s investiture of the prime minister with all three major state powers: executive, legislative and judicial. Thus, invested with the powers and privileges of a sovereign, he dwarfed the role of the concurrent king, now reduced more to a ritual straw man than an actual leader.

However, the above-mentioned depictions of the Rāṇā regime after the promulgation of the MA need to be reanalysed within a larger frame, with consideration being given to the provisions of the MA. The legislative, administrative and judicial autonomy provided by the MA laid the foundation for a constitutional system of government, thereby making it a law code unrivalled in pre-modern South Asian legal history. Therefore, the present volume will attempt to re-interpret the existing theories by focusing on the following observable aspects of the MA: (i) developments within the notion of divine kingship, (ii) the conceptual separation between the king and state, (iii) the establishment of a theory of the rule of law, and (iv) jurisdictive autonomy and cooperation between the Council and judiciary.

Thirdly, the prevailing interpretation among scholars influenced by their social, anthropological, and historical perspectives portrays the MA as part of a Hinduization strategy. According to this view, the MA aimed to establish the supremacy of Hindu values by reinforcing the caste hierarchy and promoting other Hindu norms. However, a more nuanced philological approach is necessary to determine whether the MA indeed embodies a Hinduization strategy or, more accurately, represents an attempt to create a confessional type of theocratic state. This attempt sought to integrate the diverse social and religious cultures and customs of pre-modern Nepal within a single legal framework, wherein a modified Hindu caste system and certain explicitly Hindu elements—albeit significantly deviating from their classical Brahmanical form—held dominance. In summary, this volume will focus on the provisions of the code that most clearly necessitate a re-evaluation of existing social-anthropological theories.

12 Burghart 1996: 193. A. Michaels (2005b: 5–6) similarly argues that god and king were still treated as identical in nineteenth- and twentieth-century Nepal, meaning that there was no clear separation between state and religion.
14 See M. C. Regmi 2002: 3.
Fourthly, the theories put forth by social anthropologists who have examined the MA have led to uncertainty regarding its sources. Both Western and native scholars’ studies commonly assert that the preamble of the MA draws upon Hindu legal scriptures, customary practices, and ways of life. This study aims to provide a more precise understanding of the blend of legal sources, customs, and new political thought influenced by both the ‘rule of law’ and the dharmaśāstra that culminated in the formulation of the MA. To accomplish this, selected Articles from the 1854 and 1870 codes pertaining to ‘Homicide’, which have not received critical scrutiny thus far, will be translated and analysed.

Finally, the question of whether the MA was effectively implemented as the basis of legal practice or whether it remained primarily a theoretical blueprint akin to dharmanibandhas (Hindu legal digests) has long been a subject of speculation. Scholars who have studied the MA have yet to reach a consensus regarding its actual application. Some scholars, focused on elucidating pre-modern Nepalese political history, argue that the MA did not bring about any substantial changes in the courts of law during the nineteenth century. They contend that the Rāṇā aristocracy disregarded any court procedures outlined in the MA, and that there was a lack of constitutional safeguards to ensure compliance with the code’s restrictive provisions. However, such arguments often overlook the extensive range of documents available in private and public institutions in the Kathmandu Valley and beyond. While only a fraction of these documents have been studied so far, the unexplored corpus provides a foundation for understanding the largely unknown history of MA practice in mid- to late-nineteenth-century Nepalese jurisprudence.

The current volume will therefore approach the problem of the implementation of the MA through a critical examination of nineteenth- and twentieth-century documents concerning criminal cases and civil law. By analysing these materials, it seeks to shed light on whether the MA was merely a legal text referenced but not universally applied or whether it held normative force across the country. To tackle these concerns, specific provisions from the 1854 edition of the

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16 See ‘The State of Research’ below for further discussion.
17 Dharmanibandhas constitute a genre in the encyclopaedic commentarial tradition of dharmaśāstra literature.
18 See, for example, Höfer 2004, K. K. Adhikari 1984, Fezas 2000 and Michaels 2005b. For more information, see Part I, 3 ‘The Mulukī Ain in its Application’ below.
MA and other relevant amended editions will be edited, translated, and analysed. Additionally, a translation, examination, and comparison of the Articles on ‘Homicide’ in the 1854 and 1870 editions of the MA will be conducted, preceded by an examination of the root texts. The study will also delve into the legal practices in mid-nineteenth-century Nepal, drawing on editions and translations of various documents preserved in the National Archives, Kathmandu (NAK).

1.2 The State of Research

Both native and Western scholars have studied the MA, on account of its historical and legal significance to South Asian legal history. Most of the studies have been carried out by social anthropologists, cultural historians, historians or law practitioners focusing on specific aspects of the MA depending on their personal research interests. The core textual sources which bear the constitutional characteristics of the code, e.g., the Articles ‘On the Throne’ (gaddī), ‘On Legislation’ (rājakāja) and ‘On Court Management’ (adālatī bandovasta) have not been studied by those scholars who did anthropological studies being based either on only certain aspects of the MA upon their individual interest or not taking the textual evidence into account for their main arguments. For example, R. Burghart’s theory on the concept of a nation-state in Nepal during the nineteenth century would have been shaped differently had he consulted the Article ‘On the Throne’ as well as ‘On Legislation’. Moreover, a large corpus of documents which reflects the realities of the eighteenth/nineteenth century legal and social practices of Nepal as well as the enforcement of the code have not been so far extensively dealt with. Barring a few instances, even the available translations of some of the Articles of the code are rather a paraphrasis based on its first amendment.

A reprint edition of the original Mulukī Ain as first amended in 1865–1867 (VS 1922–1924) was published in 1965 (VS 2022) by the Ministry of Justice; His Majesty’s Government of Nepal. After this,

21 See Cubelic & Khatiwoda 2017 for the detailed discussion on the kingship, patriotism and legality in the MA.
22 See MA-ED2/preface.
the MA started receiving more scholarly attention. Apart from a few exceptions, all major contributions to the MA are based not on the original code but on the first amended version of it. Scholars often consider MA-ED2 to be the original version of MA 1854—and in doing so mostly refer to A. Höfer. Nevertheless, MA-ED2—as stated in the ‘preface’ of the printed edition—is not based on the copy of the Ain prepared in 1854. Rather, as stated, the edition was prepared on the basis of the amended version. The edition published by J. Fezas in 2000 is based on several manuscripts: Original manuscripts containing the all Articles of MA 1854 and what probably underlay the first amended copy composed in 1865–1867. J. Fezas’ edition is therefore a compilation of sources, namely original folios containing the Articles prepared in 1854 and the first amended version prepared between 1865 and 1867.

The major contributions to the study of MA can be categorised under four main pillars, based on the nature of their approaches:

a) The social-anthropological approach

A. Höfer, who was assisted by the cultural historian and social scientist P. R. Sharma, is one of the major contributors to the anthropological study of the caste system as codified in the first amended version of the MA. He published his study in 1979 and came out with a second edition in 2004. Höfer extensively treats MA Articles relating to caste, untouchability, liquor consumption, purity and pollution, and similar subjects. Sharma is right in saying that

… barring a couple of articles in the 1960s and the 70s, which amounted to no more than scratching its surface, no scholar before him [i.e., A. Höfer] had turned his attention to tap the

23 See for example, Gaborieau 1966, Macdonald 1968 (English translation in 1976), and Höfer 2004.  
28 P.R. Sharma has made numerous significant contributions to the subject, as evident in his published works (Sharma 1973; Sharma 1977a; Sharma 1986; Sharma 1993). Among these, his article titled ‘Caste, Social Mobility and Sanskritization’ holds particular importance as it addresses caste hierarchy in the MA (Sharma 1977b).
wealth of social and cultural material contained in the MA in an exhaustive manner.\textsuperscript{29}

Höfer has analysed most of the pronouncements that have any relevance to caste, e.g., marriage, death, untouchability and so forth. One of the conclusions he draws is that “caste constitutes the primary organizing principle; caste status is indeed, the chief factor determining an individual’s juridical status….\textsuperscript{30} He justly notes that caste is a prime consideration in matters having to do with purity and pollution, such as marriage, adultery, the relationship between servant and master and so forth. However, his study does not deal with many other issues in which caste is of little or no relevance at all. For example, in subjects such as choice of occupation, trade and commerce,\textsuperscript{31} confiscation of a criminal’s property, disputes between tenants and landlords, revenue management, disagreements over debt and credit, decisions affecting women’s property (\textit{strīdhana}) and many other important issues, caste is not a consideration. If Höfer’s study had not explicitly targeted caste-related Articles, his conclusions probably would have taken a different shape. Since it did, though, it gives readers the impression that the MA itself created a strong hierarchical caste society. However, the MA merely refashioned a caste hierarchy, which had already been firmly rooted in society evidently from Jaya Sthiti Malla’s time. It made the pre-existing system more flexible in regard to many issues, such as occupations, trade and so forth. Significantly, Höfer discusses neither about the rationale behind the codification nor the constitutional features of the code, nor does he turn his attention to its implementation.

b) Philological approach

J. Fezas and A. Michaels have been major contributors of linguistic and historical scholarship on the MA.\textsuperscript{32} Both have discussed to what extent the regulations in the MA are based on \textit{dharmaśāstras}. Fezas has dealt among other topics with the Articles ‘On Sodomy’ and ‘The Law of Succession’.\textsuperscript{33} He has also identified a number of sources used

\textsuperscript{29} Sharma 2004: xvi.
\textsuperscript{30} See Höfer 2004: 196.
\textsuperscript{31} Höfer (2004: 196) himself has observed that caste is irrelevant to trade and commerce.
\textsuperscript{33} See Fezas 1983 and 1986b.
by the code based on its first amended version.\textsuperscript{34} In 1990, he completed a major archival research effort to establish the original 1854 version of the code, which had hitherto been unknown to scholars. His findings relating to the different versions of the code revealed that the printed MA (MA-ED2) lacks many important chapters, namely ones which contain most of the important parts of the MA serving to define its constitutional character. The findings resulted, in 2000, in the first published edition of the original code of 1854 (MA-ED1), which not only contains many missing chapters that were not incorporated into the MA-ED2 but also yields a clear outline of the amended version in virtue of having restored many legal provisions that were deleted. This pioneering first edition thus lays the groundwork for the philological study of the MA. However, as pointed out by Michaels, Fezas's editorial methodology is not particularly reader-friendly, and indeed sometimes barely understandable.\textsuperscript{35} Therefore, further work remains to be done to prepare a critical edition of the code of 1854.

Michaels's major publications on the MA deal with ritual self-immolation (\textit{sati}),\textsuperscript{36} the law on the killing of cows (\textit{govadha})\textsuperscript{37} and the office of religious judge (\textit{dharmādhikārin}).\textsuperscript{38} The first two studies are based on the amended version of the MA (MA-ED2); the last is based on the original version. He has prepared an edition of the Article ‘On the Religious Judges’ of MA 1854 and MA 1888 based on several manuscripts from the NAK, recording variations, additions, deletions and so forth in footnotes which, in comparison to Fezas's edition, makes studying the text less arduous. His study of this particular Article, followed by translations of it in the two versions of the code (1854’s and 1888’s), is the result of pioneering research on the practice of religious penance as incorporated into the code. His conclusions regarding the role of the religious judge being mainly based on the normative ideas laid down in the text. More documented evidence on the implementation of the MA is needed to substantiate his argument that the religious judge was a chief judge\textsuperscript{40} rather than a minor state agent whose

\textsuperscript{34} See Fezas 1986a.
\textsuperscript{35} See Michaels 2005b: 1 fn. 3.
\textsuperscript{36} See Michaels 1993 and 1994.
\textsuperscript{37} See Michaels 1997.
\textsuperscript{38} This personage was a royal pandit who enjoyed the specific right of granting expiation for violations of the legal code.
\textsuperscript{40} See Michaels 2005b: 12.
task was merely to ritually purify somebody if ordered to do so by the authorities or courts.\textsuperscript{41}

c) Historical approach

M.C. Regmi, K.K. Adhikari, T.R. Vaidya, and T.R. Manandhar have made notable contributions to the historical study of the MA. M.C. Regmi played a crucial role by commissioning translations of numerous Articles from different versions of the code.\textsuperscript{42} Since his main goal seems to have been the collection of materials for the purpose of his research on the history of modern Nepal and its economy, his translation seems to be rather free and, as indicated by Michaels, is short on a detailed understanding and interpretation of the MA.\textsuperscript{43} Regmi does briefly discuss the constitutional character of the code, focusing on some of the provisions, which granted considerable autonomy to judicial and administrative institutions.\textsuperscript{44} However, he argues that the code was not implemented at all.\textsuperscript{45}

K.K. Adhikari’s work, “Nepal under Jang Bahadur 1846–1877,” is widely regarded as one of the most significant publications in Nepalese historiography, drawing references from conjectured original sources. Adhikari primarily worked with the first amended version (MA-ED2) of the code, delving into its significance, the general rules of judicial proceedings, and the observed reforms and changes from previous practices in the MA. However, his discussion of the code’s sources, based solely on its preamble, does not present any new arguments.

\textsuperscript{41} Note that Michaels, along with Simon Cubelic and Rajan Khatiwoda, has successfully produced the first complete translation of the \textit{Mulukī Ain} of 1854, accompanied by comprehensive studies and analysis. He emphasizes the importance of a thorough translation of this legal code, stating, “The \textit{(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\textsuperscript{th} century—with all its social, religious and economic problems and conflicts” (Khatiwoda, Cubelic & Michaels, 2021: XV). The translation has been well received and extensively studied by scholars both in Nepal and abroad. For the initial review of this publication, refer to Hutt 2022.

\textsuperscript{42} For a detailed list of previous translations made prior to its first complete translation, please refer to Khatiwoda, Cubelic & Michaels 2021: 10–11. Also, see M.C. Regmi 1969, 1970b, 1970c and 1977.

\textsuperscript{43} See Michaels 2005b: 2.

\textsuperscript{44} See M.C. Regmi 1975: 110–111.

\textsuperscript{45} See M.C. Regmi 2002: 1–2.
Adhikari strongly opposes the notion of any British legal influence on the code but fails to address the sudden incorporation of ideas such as notional judicial autonomy, the emerging concept of the rule of law, investing the Council with executive power, and implementing checks and balances among the Council, court, and king. Regarding the law on homicide, Adhikari simply informs readers that the code addresses both premeditated and unintentional cases of homicide. He does not explore the rationale behind the codification or its implementation.

T. R. Vaidya and T. R. Manandhar for their part have jointly studied penal law in ancient, mediaeval and modern Nepal, offering during their discussion of pre-modern Nepal a short empirical overview of the law on homicide and other crimes addressed in the MA. They attempt to analyse legal history on the basis of case studies, using statistical methods targeting litigants, petitioners and other figures in the legal process. They make an initial attempt, too, to shed light on the implementation of the code, mostly based on contemporaneous accounts of Western historians, such as Captain Orfeur Cavenagh’s notes, H. Oldfield’s account and D. Wright’s history of Nepal. Therefore, a substantial study based on further documented evidence is required to validate their arguments.

d) Approaches of native law practitioners

Nepalese law practitioners represent the fourth pillar of the study of the MA. For example, the studies carried out by B. B. Karki and R. B. Pradhananga should be briefly discussed. Karki’s short study, again based on the first amended version of the code, presents a cursory overview of its characteristic features, relying mainly on the preamble of the code: viz. that it (i) was promulgated by one of three monarchs (i.e., Rājendra Śāha, Surendra Śāha and Trailokya Śāha; and (ii) contains

47 Although Trailokya Śāha is addressed as a mahārajādhirāja ‘supreme king of great kings’ in the lālamohara promulgating the MA, he died in 1878 as the ‘crown prince’ (yuvarāja). The lālamohara reads: svasti śrīgirirājacakracūḍāman- inaranārāyaṇetivedhavirājāvalivirājāmānāmānānāsrīmanmahārā- jādhirājaśrīśrīmahārājatrailokyāvīravikramasamseraṅgaśāhavahādūrahādūrdevānāḷ[ṃ] sadā samaravijayinām. “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 (an epithet of Kṛṣṇa) etc., high in honour, the venerable supreme king of great kings, the thrice venerable great king, Trailokya Vīra Vikrama Samsera Jaṅga Bahādura Śāha Bahādura Deva,
the concept of equality before law—but on the basis of caste, (iii) was enacted through the Council, (iv) addressed to the authorities and subjects, and (v) proclaimed equality before the law. Pradhananga’s study on homicide law in Nepal provides a concise examination of the pertinent Articles of the MA as expressed in the first amended version of the code (MA-ED2). The study offers an empirical overview of the regulations governing the treatment of homicide in the MA. However, it falls short in considering the original version of the code, resulting in an incomplete depiction of the MA’s homicide law. This limitation is understandable, considering that the primary objective of the study was to specifically focus on homicide law in modern Nepal.

There is a veritable plethora of other studies, which simply refer to the MA but do not deal with the text proper; being instead content simply with reiterating pre-existing ideas put forward by the major contributors.

1.3 The Legal History of Nepal

The MA did not emerge from a vacuum, but was based on practices and on pre-conceptions of the long history of Nepal's legal traditions, so that it is worth considering the earlier development of legal procedures in order to identify factors, which may have directly or indirectly contributed to the development of the later extensive and sophisticated code.

As mentioned before, Nepal was among the few kingdoms in the region that were not colonized; thus, the country could institute its own social-legal practices without any direct foreign (British) interference. This is made all the clearer by the fact that the referents of the Nepali vernacular term krštān (Christian) are explicitly categorized as Water-unacceptable Caste (pānī nacalnyā) in the MA, which indicates that the British had little if any say when it came to the legal code of mid-nineteenth century Nepal. Had they had, the status of Christians,
would have been comparatively greater. Regarding the issue of bodily purity, the MA treats Christians similarly to Muslims (musalmān),53 blacksmiths (kāmī), leatherworkers (sārkī) and tailors (damāi).54 Further, the MA explicitly defines the country as the only remaining Hindu kingdom in the Kali era, which meant that Nepal considered itself able to protect its autonomy from the British, not only politically but also culturally. For example, the MA prohibits both charitable donations to and cash investments in foreign countries, and gives the following reasons:

This is a Hindu kingdom whose Ain is such that it bans the killing of cows, women, and Brahmins; an independent land of such merit, with a palace, [situated] in the Himalayas (himavat-khaṇḍa), the land of the serpent king Vāsukī (vāsukīkṣetra),55 a place of pilgrimage for Āryas, one that contains Paśupati’s Jyotirliṅga and the venerable Guhyeśvarīpīṭha. This is the only Hindu kingdom in the Kali era.56

Starting with the Malla era, the legal history of Nepal can be divided into following seven phases: i) the early mediaeval period, from the beginning of the Malla period to before Jaya Sthiti Malla (r. 1382–1395), ii) the high mediaeval period, starting from Jaya Sthiti Malla until the unification under King Pṛthvī Nārāyaṇa Śāha (r. 1743–1775),57 iii) the early Śāha or pre-Rāṇā time, from Pṛthvī Nārāyaṇa Śāha up to the seizure of executive power by Jaṅga Bahādura Rāṇā, iv) the Rāṇā period, from 1846 to 1950, v) the initial post-Rāṇā period, from 1951 to 1990, vi) the constitutional multi-party system (1990–2015), and vii) the constitution of the Federal Republic of Nepal with the abolishment of the monarchy (since 2015). In this section, only a brief outline of the legal history of Nepal before the emergence of the MA will be discussed.
1.3.1 The Pre-mediaeval Period

Even though manifold and rich examples of the theory of Brahmanical jurisprudence in ancient India have been handed down to us, historical material on the actual legal practice has hardly been preserved. Nepal is no different in this respect. Many authors who have written on legal aspects of Nepalese history claim that until Jaya Sthiti Malla the legal praxis in Nepal was largely based on Brahmanical scriptures of Hindu law (i.e., dharmasūtras, -śāstras and nibandhas). However, without solid evidence this claim remains questionable. First, there has already been a long discussion about whether the Brahmanical law scriptures were meant to be enforced for specific geographical regions and social groups or were rather merely scholarly compositions, for all that they may have been applied to a certain extent in some regions. Second, despite all the discussion, it is still not clear whether contemporary society was governed according to customary practices (ācāra) or according to legal practices grounded completely in the dharmaśāstra, -śūtra and -nibandha texts. There is no doubt that one of the sources of the dharmashastric texts was customary practices, but it is hard to argue that the Brahmanical law scriptures could have entirely incorporated the practised customs of all the geographically and culturally diverse territories and societies of the ancient Indian subcontinent so as to have resulted in a universally acceptable law code. Thus, the question of legal praxis in ancient Nepal (before Jaya Sthiti Malla) still cannot be precisely resolved, even if there has been some speculation on the basis of limited sources.

The documented legal history of Nepal starts with around two hundred inscriptions from the Licchavi period. Since these are written in Sanskrit, it is plausible that Sanskrit was the main language of the Licchavi elite. These inscriptions indicate that the rulers were interested in their subjects enjoying a high standard of justice. For example, the Licchavis divided their kingdom into several subdivisions including

58 See Michaels 2010: 61.
60 See, for example, Rocher 1993, Lariviere 2004 and Davis 2005.
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...grāma, tala\textsuperscript{63} and draṅga\textsuperscript{64} for better governance.\textsuperscript{65} Similarly, the four state offices known as kuthera, śullī, ligvala, māpcoka were introduced for a quick and effective disposal of lawsuits. The grāmapāñcālī, a local judicial body, was granted considerable jurisdiction to take decisions regarding theft, robbery, homicide, adultery and other offences. According to Dh. Vajracharya, the effective juridical procedures put in place by the Licchavis was one of the important characteristic features of their governance. According to R. R. Khanal, the chief judicial official used to be appointed from among the members of the royal family; he had responsibility for dispensing justice on the basis of śruti and smṛtis.\textsuperscript{66} Although there is not enough evidence to determine clearly the sources of justice during Licchavi rule, arguments have been made on the basis of some available inscriptions that the classical Brahmanical legal scriptures were the main sources of the Licchavi justice system.\textsuperscript{67} The inscription of Amśuvarman (r. 605–621) in Handigaon is one of the notable examples of the king expressing great joy in preparing rules and regulations.\textsuperscript{68} Further, the pillar inscription of Anuparama\textsuperscript{69} at the Satyanārāyaṇa Temple of Handigaon shows that the Manusmṛti, Yamasmṛti and Brhaspatismṛti were consulted by the Licchavis.\textsuperscript{70}

\textsuperscript{63} According to Dh. Vajracharya, this term refers to a certain inhabited area that comprised many villages. It appears, for example, in the following inscription of Cauktiāra, near Balambu: […] bhāṭṭārakamahārājāśrīgaṇadevaḥ kuśalī śītāṭikātale ṭegvalagrāme yathāpradhānabrāhmṇa-purasarān sarvān eva kutumbinah kuśalam prstyā mānayati. “[…] the venerable Great King Gaṇadeva asked about the well-being of the respective Brahmins including all householders [who] live in Ṭegvala village of Śītāṭikātala and gave [corresponding] orders.” Quoted in Dh. Vajracharya 1966: 11.

\textsuperscript{64} According to the inscriptions of Śivadeva and Amśuvarman in Bhīmasenasthāna, draṅga also refers to a certain division of land. This meaning can be extracted from the following line: kuthervṛttyadhikṛtānāṃ samucitas trikaramātrasādhanā (yiva praveśo) smin draṅge […] ligvalaśullī pañcāparādhādinimittan tv apra (veśa iti) prasādo vaḥ kṛtaḥ. “Officials of the kuthera shall enter into this draṅga only to collect the three [types] of revenue. […] you are [directed] not to enter [into it] to [crack down on] the five grievous crimes.” Quoted in Dh. Vajracharya 1966: 14.

\textsuperscript{65} Dh. Vajracharya 1966: 17.

\textsuperscript{66} See R. R. Khanal 1978: 29.

\textsuperscript{67} See Dh. Vajracharya 1967.

\textsuperscript{68} […]aniśi niśi cānekaśāstrārthavimarśāvasāditāsaddarśanatayā dharmādhikāras-thitikaranam evotsavam anatīṣāvam manyamānah […] “[…] the bad opinion has gone while discussing, day and night, about the meanings of the śāstras. Thus, the big celebration is arrangements of justice […]” Quoted in Dh. Vajracharya 1967: 349.

\textsuperscript{69} It is not yet known when Anuparama was born. However, he is identified as the father of Bhaumagupta, who ruled Nepal around 558. According to the inscription of Abhūrī Gominī, Anuparama died in 540; see D. Acharya 2007: 32–33.

\textsuperscript{70} <samākhyā-taṃ śāstre manyamaṃ brhaspatyusānasāṃ vidhānam kṛtyānām asugamanapadaṃ loka(ya)-makam> […] “In the scriptures of Manu, Yama,
Although Dh. Vajracharya argues on the basis of the above-mentioned inscriptions that the Licchavis enforced Brahmanical law scriptures as part of their judicial practice,⁷¹ the extent to which they were used in law cases remains unknown.

1.3.2 Mediaeval Period

Jaya Stiti Malla was the first ruler to take initial steps on the road to a written law code by having the NyāV (before 1379) produced in both Sanskrit and vernacular Newari.⁷² According to the Nepālik-abhūpavamsāvalī (hereafter NBhV), Jaya Stiti Malla had formed a group of five pundits, Kīrtinātha Upādhyāya, Ragunātha Jhā, Śrinātha Bhaṭṭa, Mahīnātha Bhaṭṭa and Rāmanātha Jhā, in order to introduce legal reforms.⁷³ Since the Sanskrit version of the NyāV was for the most part a commentary on the fourth canto of the Nāradasmṛti (henceforth NārSm),⁷⁴ little similarity to positive law can be observed in it.⁷⁵ Although the extensive NyāV can be considered more a rewriting of a Brahmanical law text than an independent work, it is an important initial foundation for the development of codified law in Nepalese legal history. The Newari version of it, shrouded in the complexity of the mediaeval vernacular Newari language, is still untranslated.⁷⁶ According to D.R. Panta, it is not a literal translation of the root text. In most verses, it differs from the Sanskrit version.⁷⁷

Brhaspati, and Ušanas, the way of performance of duties is ‘stated’. Ed. and tr. in D. Acharya 2007: 41 and 47.

⁷¹ See Dh, Vajracharya 1967.
⁷² According to D.R. Panta (2008: 328) the exact date of the composition of the text is not known. However, the colophon of one manuscript which he used to prepare a diplomatic edition of the text mentions, “the text was copied on Thursday, the 3rd of the bright fortnight of Phālguna in the Nepal Era 500 for the minister Jayata Varmā.” Svasti śrīnepālikasamvatsare 500 phālgunaśuk-latṛtiyāyāṃ guruvāsare śrīśrījayasthitirājanalladevasya vijayarājye bhaktapure amātyajayatavarmanah puṣṭakam(!) idam alekhi. (NyāV, p. 328). This colophon provides us with a date ante quem, in this case AD 1379.
⁷⁵ See Lariviere 2004: 612 for the discussion of the term ‘positive law’.
⁷⁶ Kashinath Tamot (a Newari scholar) assisted by Jivanakumāra Maharjana has prepared a diplomatic edition of the Nepālanyāyapālavidhi, the Newari version of the Nyāyavikāsinī (see Tamota 2006). In a personal communication (January 2013), he characterized its language as complex, but he hopes to undertake a translation of it in the future.
After Jaya Sthiti Malla, the regulations attributed to King Mahendra Malla (also written as Mahindra, r. 1560–1574) are noteworthy in that they served as a model for subsequent rulers. In one regulation, he addresses the village heads of his kingdom and directs them not to indulge in gambling but to work in the interests of the subjects. He further ordered them to speak the truth and resolve local disputes locally. He also advised his subjects to trade and to work with other provinces of other kings in order to bring new skills to their own kingdom.

Besides the Licchavi kings Mānadeva I (459–505) and Āṃśuvarman, as well as Jaya Sthiti Malla, many authors attribute to Rāma Śāha, the fourth king of Śāha dynasty, a decisive role for the introduction of written law. Rāma Śāha promulgated a considerable number of royal edicts and decrees (hereafter RŚEdict) in order to reform the justice system. For example, he made a provision that family members of an adulterer who did not participate in the adultery were no longer to be held responsible. The principle of individual liability thus replaced earlier forms of collective liability. The RŚEdict introduced a scientific system of areal and weight measurement, fixed the maximum interest on debt, regulated disputes regarding land irrigation and oil pressing, controlled deforestation and addressed other subjects. However, T. Riccardi has questioned the historicity of the RŚEdict. According to him, the language used in it bears characteristic features of the late eighteenth and early nineteenth centuries, and consequently it cannot be a product of the fifteenth century. Moreover, the RŚEdict carries late grammatical features of Nepali language in comparison to the Rānī Pokharī inscription of Pratāpa Malla (r. 1641–1674), whose date corresponds to 1670. Therefore, I assume that the extant text represents an eighteenth or nineteenth century recording of the lost original that was adapted to the language and practice of that period.

80 T. Riccardi (1977: 32 fn. 8) argues that Rāma Śāha’s edicts were not organized written codes in the mould of Jaya Sthiti Malla’s attempt at reforming a caste system in Nepal.
81 See RŚEdict 16 in MA-ED2/Appendix and Riccardi 1977: 54.
82 See B. Khanal 2000: 11.
83 See Riccardi 1977: 32.
84 For the Rānī Pokharī inscription, see Clark 1957: 167–187.
1.3.3 Pre-Rāṇā Period

From the late eighteenth century onward, there are more sources available, allowing for a more nuanced understanding of the legal praxis of the pre-Rāṇā period. These sources emerged in consequence of the state-building project initiated by Pṛthvī Nārāyaṇa Śāha, who started the quest of unification by conquering the bāīṣī-rājya (‘twenty-two principalities’), a group of petty kingdoms centred in the Karnālī-Bherī river basin, and the caubīṣī rājya (‘twenty-four principalities’), a group of sovereign and intermittently allied petty kingdoms in the Gaṇḍakī river basin. To be sure, even though in Nepalese nationalist historiography Pṛthvī Nārāyaṇa Śāha’s wars of expansion often have been portrayed in terms of unification, they were rather merely an attempt to enlarge the territory of the Gorkhā kingdom. This expansion reached a climax when he conquered the economically and culturally rich Malla kingdom of Kāntīpura (Kathmandu) in 1768, which indeed provided a solid base for a unified Nepalese state. Pṛthvī Nārāyaṇa Śāha’s reign represents both in institutional and ideological terms a ‘critical juncture’ in that it set the course for the formation of a Nepalese state, identity, and ideology. Even though several regulations included in the MA seem to have been laid down by this king, there is no direct link leading from his legislative measures to the MA. Pṛthvī Nārāyaṇa Śāha in his political testament, the Divyopadeśa (c. 1774, henceforth DivU), expressed a wish to lay down edicts of his own, but the document has rather to be interpreted as an attempt to emulate legitimatory practices of preceding rulers than as formulating a systematic and comprehensive legislative statutory law. Therefore, legal initiatives during his and his successors’ times before the establishment of the Rāṇā regime largely

85 The Śāha period produced not only paper documents but also a significant number of inscriptions; e.g., see Dh. Vajracharya & T.B. Shrestha 1980.
86 See for a detailed history of Gorkha, for example, D.R. Panta 1986, and also, concerning the question of unification and topics raised in the present section, H.N. Agrawal 1976.
87 Pṛthvī Nārāyaṇa Śāha conquered Kathmandu in September 1768, which was the day of the Kumārī Yātrā celebration (see D.R. Regmi 1961: 80, Slusser 1982 (vol. 1): 76).
89 This text is attributed to Pṛthvī Nārāyaṇa Śāha, but its authenticity is still questionable.
90 “I observed the arrangements of King Ram Shah. I saw the arrangements of Jaya Shithi Malla, also. I saw, too, the arrangements of Mahindra Malla. If it is God’s will, I would like to make this sort of arrangement for the 12,000” (translated in Stiller 1989: 43).
consisted in orders given in reaction to particular judicial cases of limited scope and were embodied in such types of documents as rukkās (missive), lālamoharas (royal deed), sanadas or royal edicts issued in order to establish the ruler as the supreme authority in legal matters.

After Prthvī Nārāyaṇa Śāha, Bahādura Śāha (r. 1785–1794) introduced some regulations relating to land reform. For example, he issued a rukkā in 1791 in which he ordered that land located east of Sindhu Naldum, west of the Dudh Koshi, north of the Mahabharat range, and south of Listi and the border with Bhoṭa (i.e., Tibet) be surveyed. He also set tax rates according to the quality of land: Four rupees for twenty murīs of first-grade land (abbala), three for twenty murīs of second-grade land (doyam), and two rupees for twenty murīs of third-grade land (simā).

King Raṇa Bahādura Śāha (r. 1777–1799) issued a savāla in 1806, which contains forty sections. It addresses the subbās who have been sent throughout the country, west of the Kanaka-Ṭiṣṭā river system and east of the Mahākālī. The savāla regulates such matters as bribery, disputes between landlords and tenants, revenue collection, land cultivation, misuse of ritual objects in temples and bodily impurity.

Another key figure of the pre-Rāṇā period for the introduction of clearly formulated written law was Ujira Simha Thāpā (1795–1824). A nephew of Prime Minister Bhīmasena Thāpā and son of Amara Simha Thāpā, the commander of the Nepalese army during the Anglo-Nepalese war of 1814–1816, he was appointed by Bhīmasena Thāpā as colonel of the Royal Army and stationed in Pālpā as a frontier governor. In 1822, he prepared a short but noteworthy legal statement

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92 Missive of high-ranking officials, often the king and prime minister.
93 Royal order or decree bearing a red seal.
94 A grant, charter, appointment or endorsement, often signed by a ruling authority.
95 Unit of land measurement in the hill region, comprising ¼ ropani with 100 murīs in 1 khet.
96 The best of four land categories (cp. doyama, cahāra, sima), also used for the tenants on such land.
97 The second best of four land categories (cp. abbala, sima and cahāra), also used for the tenants on such land.
98 The second best of four land categories (cp. abbala, sima and cahāra), also used for the tenants on such land.
99 This refers to the rules and regulations enacted based on an existing law; “government rules and regulations” (Karmacharya 2001a: 328). Savālas refer to ordinances, which are a collection of directives issued primarily for administrative purposes.
100 See Lawyer's Club 2006: 85–89.
101 Governor or chief administrative officer of a province or district.
102 See Dangol 1983 for a detailed account of Ujira Simha Thāpā.
(called *Ujira Simhako Ain*, henceforth *UjAin*)\(^{103}\) mainly regarding military affairs, but also dealing with civil legal matters and judicial procedure. As indicated by J. Fezas, this *Ain* set forth recommendations for legal reform rather than being a proper piece of legislation in itself.\(^{104}\) Indeed, many of these rules had a direct influence on the MA. For example, Ujira Simha Thāpā proposed strengthening evidential law applied during judicial proceedings and enhancing the independence of court decisions.\(^{105}\) In the MA, we find very similar provisions regarding the interrogation of accused persons and the same procedures when imposing punishment.\(^{106}\) When property is confiscated, for instance, Ujira Simha Thāpā recommends that only the property of the offender should be taken; and not that of his son, father or brother, though. In line with this provision, the MA also explicitly states that only the offender’s share of property—what he is entitled alone to receive in accordance with the *Ain*—should be confiscated.\(^{107}\) This undertaking by a member of the aristocratic elite of preparing legal recommendations in code-like form went a long way towards promoting the idea of a formal codification among the rulers. The explicit mention of the British court system as a model by Ujira Simha Thāpā indicates that his endeavour was influenced, to some extent, by his interaction with the colonial legal system.\(^{108}\)

In 1826, some years after Ujira Simha Thāpā finished his code, King Rājendra Śāha (r. 1816–1847) issued several regulations regarding the management of the judicial system.\(^{109}\) In one of these regulations, equality under the law is specifically enjoined, while others illustrate it. For example, the first rule instructs Dalabhañjana Pā̃ḍe to hear complaints filed against royal priests, ministers, local, central and high administrations by any subject irrespective of caste status, position or


\(^{104}\) See Fezas 2000: xii and xiii.

\(^{105}\) For example, the third, fourth and fifth sections of the first Article and sections one to four of the fourth Article direct government employees to get a proper understanding of the facts, investigate the case not to impose punishment before offenders confess their crime (*UjAin*/1 §§ 3–5 and *UjAin*/4 §§ 1–4).

\(^{106}\) See MA-ED2/37.

\(^{107}\) See MA-ED2/43.

\(^{108}\) “[As I saw] the Lord Judge Justice [and] Interpreter were sitting in the court of British, [therefore I made the following regulations,] which are needed for those who sit in a Nepalese court.” *Adālatamā basnyā jastai phirangikā lāṭa jajjustis inaṭarapiṭara rahinchan tastai adālatamā basnyā mānislāi cāhinyā kām.* (*UjAin*/4).

\(^{109}\) See Lawyer’s Club 2006: 110–112.
financial status. Later, this concept of legal equality was included with the same phrasing in the preamble of the MA proclaimed by Rājendra Śāha,\textsuperscript{110} although the MA itself did not follow this principle.

In the Śāha period, we have more sources not only on legislation, but also on the judicial administration. Jurisdictional institutions were already well structured during the end of the Śāha period before the onset of the Rāṇā regime. B. H. Hodgson paints the following picture of legal institutions in mid-nineteenth-century Nepal (before the promulgation of the MA).\textsuperscript{111} There were four major legal courts in Kathmandu: the Iṭācapalī,\textsuperscript{112} Koṭīliṅga, Ṭaksāra and Dhanasāra. These courts were responsible for adjudicating both civil and criminal cases. In addition, there were two minor courts: The (Sadara) Daphdar Khānā\textsuperscript{113} was responsible for disputes regarding land assigned to soldiers as jāgi(ra),\textsuperscript{114} while the Chebhadela\textsuperscript{115} dealt with legal disputes pertaining to disputes between families. Any subject who lived in the kingdom was permitted to file a civil case at any of these four courts, while criminal cases had to be heard in the Iṭācapalī. The other courts were subordinated to the Koṭīliṅga, where a dīṭṭhā\textsuperscript{116} was appointed as the chief judge for appellate cases. This dīṭṭhā served as chief judge for all the four courts, with two bicārīs,\textsuperscript{117} one jamdāra/jamadāra,\textsuperscript{118} twenty-five soldiers, twenty-five mahāniyās/mahānes,\textsuperscript{119} and five peons being appointed to each of the courts in the capital. The prime minister stood as a supreme authority, and the first (i.e., penultimate) authority of appeal. Petitions could be addressed to him if a person was not satisfied with the decision of the courts. If the prime minister failed to

\textsuperscript{110} See MA-ED2/preamble.
\textsuperscript{111} See Hodgson 1880 (vol. 2): 211–236.
\textsuperscript{112} One of the four central courts (cāra adālata) located in Kathmandu, others being Koṭīliṅga, Ṭaksāra, and Dhanasāra.
\textsuperscript{113} Primarily, it served as a general registry office for land and revenue assignments in place of pay (jāgira).
\textsuperscript{114} Land assigned to government employees in lieu of salaries.
\textsuperscript{115} Primarily, it served as the building authority, with responsibilities for constructing and renovating state houses and properties.
\textsuperscript{116} A civil servant ranking above a mukhiyā and lower than a subbhā. Originally, dīṭṭhās served as judges presiding over the courts in Kathmandu, but later they could also hold various other offices such as Kausī, Hāttīsāra, or Sadara Daphṭara Khānā (Edwards 1975: 107). The MA distinguishes three categories of dīṭṭhās: Jāngī Kote Dīṭṭhā (likely referring to combatant personnel), Lājimā Dīṭṭhā, and Dīṭṭhā in charge of the Elephant or horse stable or cowshed (MA-ED2/31 § 11).
\textsuperscript{117} Magistrate, ranked under dīṭṭhā.
\textsuperscript{118} A commissioned officer of low rank in the army, who could also be assigned to civil offices.
\textsuperscript{119} A local revenue functionary in the Kathmandu Valley.
satisfy him, the appellant could still appeal to the king as a last resort. The king then decided the case after consulting with the Court Council (*bhāradārī sabhā*)\(^{120}\) in a session witnessed by a *dharmādhikārin*.\(^{121}\) The *dharmādhikārin/dharmādhikāra* was present only on certain occasions, acting among other things as the main judge during impurity trials.\(^{122}\) He was responsible for enforcing traditional Brahmanical regulations and customary laws relating specially to penance and other religious practices, and for granting expiation (Nep. *patiyā*, Skt. *prāyaścitta*)\(^{123}\) and issuing a short note (*patiyāpūrjī*) to reinstate into their caste persons who had been polluted through an impure act as defined in the customary practices. Apart from the mentioned courts in the capital, there were two provincial courts in the west, in Pālpā and Doṭī, where *bicārīs* were sent by when necessary. The provincial courts were not allowed to hand down decisions upon the following five offences: killing a Brahmin (*brahmahatyā*), killing a woman (*strīhatyā*), killing a child (*bālahatyā*) and illicit sexual intercourse (*pātakī*). A lawsuit relating to these five offences had to be forwarded to the higher courts. Besides the central and provincial courts, a local legal body called a *pańcāyata/pańca*\(^{124}\) exercised certain jurisdictional powers. The *pańcāyata* was neither a government body nor a permanent local body. A *dīṭṭhā* had the right to form a local legal body for the settling of minor lawsuits. No one could be a member of a *pańcāyata* without the consent of both parties, the complainant and defendant. Further, any decision of a *pańcāyata*—if the decision was satisfactory to the both parties—had to be referred to the upper courts for enforcement. Although the Śāha period witnessed both the establishment of a hierarchical court structure and initial attempts at legal codification, it was only after the ascendancy of the Rāṇā family that the idea of codification gained momentum, as will be explored in the following section.

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120 During that period, four *kājis*, four *saradāras*, four eminent men of high character, one *dīṭṭhā* and one *bicārī* were the members of the Court Council (Hodgson 1880 [vol. 2]: 213).

121 A judge in the religious jurisdiction whose primary responsibilities involve granting expiation and rehabilitation to individuals considered polluted. This term is exclusively used for Brahmins.

122 See Michaels 2005b: 11–12.

123 For discussions of these terms, see Höfer 2004: 161–162, Michaels 2005b: 35–39 and NGMPP K 175/18 (Part II: C, Document 4).

124 An assembly of elders forming a local judicial body.
1.4 The Emergence of the MA

1.4.1 Overview

The period from the second half of the eighteenth century to the beginning of the twentieth century has been widely characterized as an ‘age of codification’ in legal history, as discussed elsewhere.\textsuperscript{125} This era witnessed the proliferation of legal codification across Europe, with Prussia (1794), France (1804), and the Habsburg monarchy (1812) serving as initial catalysts, followed by subsequent waves of codification throughout the continent.\textsuperscript{126} According to the prevailing narrative, this phenomenon was primarily driven by an increasing number of legal experts, the rising bourgeoisie’s demand for a rational and predictable legal framework, and the integration of liberal principles within the emerging nation-states of Europe.\textsuperscript{127} Consequently, this process of rationalizing and modernizing legal systems ultimately paved the way for the concept of constitutionalism, which fundamentally transformed the basis of state power legitimation in Europe.\textsuperscript{128}

It is noteworthy that legal codification was not limited to the Western world alone; it also exerted significant influence in non-colonial Asia. Among the instances in this region, the \textit{Mulukī Ain} stands out as an exception to the aforementioned narrative of codification leading to constitutionalism. In the early nineteenth century Nepal, the conditions necessary for such a codification project—such as a well-established body of professional jurists, a politically aware bourgeoisie capable of fostering such initiatives, or the pressure from a colonial authority—were absent. Moreover, Nepal remained under the framework of divine kingship during the nineteenth and twentieth centuries, wherein the king, perceived as a manifestation of Viṣṇu, held the ultimate authority to mandate penalties through his appointed officials. As R. Burghart highlights, “at the turn of the nineteenth century, the king of Nepal saw himself as a divine actor in his realm, considering himself an embodiment of the universal god Vishnu, and his palace was revered as a temple.”\textsuperscript{129} Additionally, A. Michaels notes that god and king were treated as identical in Nepal, indicating a lack of clear separation between

\textsuperscript{125} See Cubelic & Khatiwoda 2017. The first and second passages in this section (1.4.1) are taken from this paper.
\textsuperscript{126} See Kroppenberg & Linder 2014: 72.
\textsuperscript{127} See Kroppenberg & Linder 2014: 70–74.
\textsuperscript{128} See Cubelic & Khatiwoda 2017.
\textsuperscript{129} Burghart 1996: 193.
the realms of state and religion.\textsuperscript{130} Therefore, the endeavour to introduce a legal code that would bind the king to specific regulations was a unique and formidable task specific to Nepal.\textsuperscript{131} This ambitious project of establishing a comprehensive national legal code became intertwined with the re(formation) of the Nepalese state in the latter half of the eighteenth century.

The foundation of modern Nepal goes back to Prthvī Nārāyaṇa Śāha, who expanded his territory by conquering many other petty royal provinces and established a strong, unified kingdom after he conquered Kathmandu in 1768. After unification, the king figured as the supreme authority in all matters, and was assisted by the royal priests (rājagurus) and members of the royal assembly (bhāradārī sabhā). Prthvī Nārāyaṇa Śāha ruled his kingdom as an absolute monarch who controlled all levels of power in administrative, legislative and judicial matters. This strong executive power and the centralized government of the Śāha kings lay a solid ground for the development of concrete administrative and judicial institutions staffed with loyal functionaries. For example, such officials as the cautariyā,\textsuperscript{132} kājī,\textsuperscript{133} saradāra,\textsuperscript{134} kaparadāra,\textsuperscript{135} khajāncī,\textsuperscript{136} diṭṭhā, bicārī, subbā, dvāryā/dvāre,\textsuperscript{137} caudhari,\textsuperscript{138} nāike\textsuperscript{139} and hajuriyā\textsuperscript{140} were deployed throughout the kingdom in order to keep a firm grip on the provinces.\textsuperscript{141} Thus, when the Rāṇā aristocracy seized

\begin{itemize}
  \item \textsuperscript{130} See Michaels 2005b: 5–6.
  \item \textsuperscript{131} See below (Part I, 1.5.2) and Cubelic & Khatiwoda 2017 for a discussion of the regulations constraining kingship in the MA.
  \item \textsuperscript{132} A prestigious title bestowed upon several male descendants of the Śāha kings, carrying high-ranking status but without specific assigned functions or duties.
  \item \textsuperscript{133} An official of ministerial rank in the civil and military administration.
  \item \textsuperscript{134} An official of ministerial rank in the civil and military administration.
  \item \textsuperscript{135} Kaparadāra is a high-ranking official who held the position of chamberlain and is described as the chief of the royal household. The kaparadāra is responsible for overseeing various important aspects, including managing the king’s wardrobe and being in charge of jewellery and other valuable items within the palace (M. R. Pant 2002).
  \item \textsuperscript{136} Chief royal treasurer and head (hākima) of the Kausītosākhānā.
  \item \textsuperscript{137} A dvāre held the role of a local revenue collection official, as mentioned by M.R. Pant (2002: 132). Furthermore, a dvāre also served as a gatekeeper at the royal palace, entrusted with the responsibility of collecting specific levies.
  \item \textsuperscript{138} A headman or landlord vested with revenue-collection rights, especially in the Tarai.
  \item \textsuperscript{139} Nāike primarily signifies a leader who holds authority over different kinds of groups, localities, or duties. Moreover, it can specifically indicate a headman, akin to a pradhāna, especially within the setting of a Newar village.
  \item \textsuperscript{140} This refers to a personal attendant of a member of the royal family. These individuals were assigned various administrative or other duties based on the preferences and discretion of their masters. See T (s.v. hajuriyā).
  \item \textsuperscript{141} See H.N. Agrawal 1976: 7–8.
\end{itemize}
executive powers from the king in 1846, a solid foundation for a unified legal code was already in place, and within a decade, the promulgation of the MA became a turning point in Nepalese administrative and legal history. The driving force behind the codification project was Jaṅga Bahādura Rāṇā, the country’s de facto ruler, who oversaw a shift away from the country’s diverse judicial practices towards a common set of laws. In the following section, I shall first briefly discuss the political scenario during Bhīmasena Thāpā’s prime ministership, the turmoil after his fall and the rise of Jaṅga Bahādura Rāṇā, which events not only resulted in the disempowerment of the king for the first time in Nepalese monarchical history, but also represented a milestone in the process of establishing a nation-state, one of whose cornerstones was Jaṅga Bahādura Rāṇā’s initiatives towards a homogeneous set of basic laws.

1.4.2 Political Turmoil after Bhīmasena Thāpā’s Fall

Bhīmasena Thāpā emerged as a powerful minister at the end of Raṇa Bahādura Śāha’s reign between 1777–1806. Under the regency of Lalita Tripura Sundarī, who herself had been born into the Thāpā clan, Bhīmasena Thāpā was given charge over all military and civil authorities. In 1811, he obtained the rank of general. After the death of King Gīrvāṇayuddha/Gīrvāṇuyuddha Śāha (r. 1799–1816), Bhīmasena Thāpā became an even more powerful national figure during the kingship of Rājendra Śāha (r. 1816–1847), who was two and a half years old when he was enthroned. During Bhīmasena Thāpā’s prime ministership, relations between Nepal and the East India Company worsened, the seeds for which had already been sown by Lord Wellesley, who formally dissolved the peace treaty with Nepal in 1804. The British finally proclaimed war against Nepal in 1814. As a consequence of that war, Nepal had to sign a treaty with the East India Company in 1816, resulting in the loss of two-thirds of its territory. In the aftermath of the war, Bhīmasena Thāpā became the most powerful person in the palace. He consolidated his preeminent position by assigning civil, military and judicial administration of the Western provinces completely to

143 For an overview of the Anglo-Nepalese war of 1814–1816, see Prinsep 1825: 81–131.
his brother Raṇavīra Siṃha. B.H. Hodgson, corresponding with his superior C.E. Trevelyan, opines that Bhīmasena Thāpā has the “[…] ultimate design of permanently setting aside the rights of the Prince, and will apparently necessitate the increase of the existing strength of the army […].” According to B.R. Acharya, Bhīmasena Thāpā, who had enjoyed ultimate power as a shadow of Rājendra Śāha, fell from power because of the autocratic nature of his brother Raṇavīra Siṃha and nephew Māthavara Siṃha Thāpā, and a conspiracy hatched by the British Resident B.H. Hodgson. Since Rājendra Śāha was not able to control the administration, his wives Sāmrājya Lakṣmī and Rājya Lakṣmī Devī had no trouble interfering with the king in all royal matters. In 1837, Bhīmasena Thāpā was accused by Sāmrājya Lakṣmī of poisoning Prince Devendra Śāha. Soon he along with his family members and the royal doctors (rājavaidya) who had treated the prince were arrested and put in prison, and their property seized. As foreseen by B.H. Hodgson, the heavy hand of politics applied by Bhīmasena Thāpā during his twenty-five-year-long rule resulted in a very unhealthy power struggle within the palace and among the (bhāi)bhāradāras. After the dismissal of Bhīmasena Thāpā from office, the mukhtiyaśa-ship (prime minister and commander-in-chief) was assigned to Raṇajaṅga Pā̃ḍe, who was a grandson of Kālu Pā̃ḍe, the commander of the Gorkhāli forces during the unification campaign of Nepal initiated by Prthvī Nārāyaṇa Śāha. Unable to gain support from the majority of bhāradāras, however, he left office after just three months. After his resignation, the process of appointment and dismissal of mukhtiyras continued until the return of Māthavara Siṃha Thāpā from exile and his appointment as mukhtiya in May 1843. As Wright notes, the frequent rotation of mukhtiyras and other bhāradāras in the administration, coupled with the faction-building among the royal family members and bhāradāras, created a complete political vacuum, which frequently led to rifts in the

144 See Kumar 1967: 27.
145 Quoted in Kumar 1967: 27.
146 See B. Acharya 1962: 9–16.
147 In 1834, B.H. Hodgson offered to C.E. Travelyan the following analysis about ongoing developments in Nepalese politics: “If Bhim Sen continues to rule unchecked, his death or retirement would be followed by a civil war which would be detrimental to the peace and commerce between two countries” (quoted in Kumar 1967: 27).
148 A generic term for a member of the royal family or high-level state functionaries.
150 See Wright 1877: 55.
As a consequence of the extreme political turmoil, the rise of another ruler like Bhīmasena Thāpā was all but a matter of time. Thus, Jaṅga Bahādura Rāṇā appeared on the political scene of mid-nineteenth-century Nepal as if according to script.

1.4.3 The Rise of Jaṅga Bahādura Rāṇā

Sundry stories about Jaṅga Bahādura Rāṇā’s courage in facing difficulties, his physical abilities and miraculous events surrounding him have been handed down from generation to generation by Nepalese. A daring jump into the river Triśulī on a horse, his plunge into a deep well or his leap down from the top of the Dharaharā tower, the tallest structure in Kathmandu in the south-west corner of Tūḍikhela. However, it is not evident what is fabricated and what real in these stories. Contemporary sources stress Jaṅga Bahādura Rāṇā’s intelligence and boldness. For example, the British Resident Major Lawrence describes Jaṅga Bahādura Rāṇā as follows: “Kazi Jung Bahadur is Mathbar Singh’s nephew, but though clever and soldier-like, indeed more so than any man in Nepal, he is a time-server and warmly joined the Chautarias during the exile of his uncle and the disgrace of the Thapas.” A long discussion on the legendary aspects of Jaṅga Bahādura Rāṇā’s career is beyond the scope of this thesis; I shall here briefly introduce Jaṅga Bahādura Rāṇā and his emergence in Nepalese politics.

Jaṅga Bahādura Rāṇā was born on the eighteenth of June 1817 to Gaṇeśakumārī Devī (also called Rakṣakumārī), niece of Bhīmasena Thāpā, and Bāla Narasiṃha Kũvara, who held high positions during Thāpā’s time in government. Jaṅga Bahādura joined in army operations in his mid-teens while visiting his father stationed in the eastern province of Dhanakuṭā, around 1828, and in the western provinces of Ḍaḍeladhurā and Jumlā, in around 1835. In 1837, he, along with his family and a number of relatives lost their positions and property when Bhīmasena Thāpā was dismissed from his post. Soon thereafter, he went to Benares for some time and came back to Nepal only in 1841.

151 See Wright 1877: 55.
152 See, for example, Whelpton 1983: 9 and M. R. Panta 2013a: 2–3.
153 This is from a diplomatic report sent to the governor general in June 1845. It is quoted in Stiller 1981: 317.
156 See Whelpton 1983: 75.
Rājendra Śāha’s first queen, Sāmrājya Lakṣmī, died in 1841, leading to more political chaos in the palace. The second queen, Rājya Lakṣmī Devī, quickly became more influential in the royal court. She wanted to enthrone her son, Raṇendra Śāha, who had not been on the roll of succession for the kingship. Jaṅga Bahādura was appointed as a personal attendant of Surendra Śāha in November 1841, and used his position to curry favour with the queen. After two months, he obtained the post of kājī and was stationed in Kumārī Coka, an office responsible for keeping government accounts. Jaṅga Bahādura gained an even more influential position under Māthavara Simha Thāpā, a maternal uncle of his. However, their relationship worsened due to disagreement over administrative matters. This finally led to the murder of Māthavara Simha Thāpā in May 1845 at the hands of Jaṅga Bahādura after he was called by the king to the palace for a meeting. Jaṅga Bahādura played a prominent role in the government newly formed soon after the death of Māthavara Simha Thāpā, being appointed as general with command over three regiments of the army, although he did not hold an official ministerial position. Phatya Jaṅga Śāha held the mukhtiyāra-ship in the government, but the leading figure was General Gagana Siṃha, who was strongly supported by Rājya Lakṣmī Devī. The general was shot on 14 September 1846. The queen reacted in an unhinged manner, ordering Jaṅga Bahādura to find the murderer. He called a court

158 Māthavara Simha was nephew of Bhīmasena Thāpā. He was exiled to India in 1838. As soon as Rājya Lakṣmī Devī became Rājendra Śāha’s regent, Māthavara Simha was called back to Nepal by her and appointed as minister and commander-in-chief of the army (see Whelpton 1983: 78).
159 S. Kumar (1967: 36) and J. Whelpton (1983: 78) present the two following reasons for the disruption of relations between Māthavara Simha and Jaṅga Bahādura: one was the former’s refusal to investigate a request made by some tenants for reduction of rent obligations; the other was his refusal to intervene against the death sentence imposed on Devī Bahādura, a cousin of Jaṅga Bahādura’s. D. Wright also hints at Māthavara Simha having nursed some sort of suspicion against Jaṅga Bahādura. He writes: “By this time, however, he [Jaṅga Bahādura Rāṇā] had risen to the rank of Colonel, and in 1844 his uncle, Matabar Singh, expressed some alarm at the increase of his influence at Court and with the army” (Wright 1877: 55).
160 See Wright 1877: 55.
161 D. Wright, seemingly confused because of the rapid replacement of mukhtiyāras during this period, states that the new government was formed under Gagana Simha (Wright 1877: 56), when in fact, according to sources, the new government was formed under the cautariyā Phatya Jaṅga Śāha; see, for example, Kumar 1967: 36 and M. R. Panta 2013a: 3.
162 There is no consensus among historians about the murder of Gagana Simha. D. Wright (1877: 57) records that Gagana Simha was shot by somebody called Āli Jah (he probably meant Āli Jhā). S. Kumar (1967: 32), referring to
assembly consisting of both civil and military officials to the Kot, a royal assembly hall at the Hanumān Dhokā palace, where he and his brothers were on hand, along with his three regiments. The queen let herself be convinced by Jaṅga Bahāḍura that Vīra Keśara Pāḍe, a relative of the minister Dalabhañjana Pāḍe, had murdered Gagana Siṃha. Jaṅga Bahāḍura proceeded to propose to Phatya Jaṅga that he sentences Vīra Keśara to death, but to no avail. As soon as the queen got wind of this, she herself went to have Vīra Keśara executed, but was stopped by Phatya Jaṅga, Abhimāna Siṃha and Dalabhañjana Pāḍe and told that they would properly investigate the murder. As the queen was heading back to the upper floor of the Kot building, the three of them were shot. Soon the son of Phatya Jaṅga, Khadga Vikrama, came to know that his father had been shot, he attacked Krṣṇa Bahāḍura and Bam Bahāḍura, the brothers of Jaṅga Bahāḍura, who in turn shot Khadga Vikrama. Meanwhile, Jaṅga Bahāḍura Rāṇā’s three regiments were going on a shooting spree, targeting everyone their commander had directed them to. According to K. K. Adhikari, Jaṅga Bahāḍura Rāṇā was given the command of sixteen regiments while the massacre was still taking place. The whole incident lasted until the morning of the fifteenth of September. Although it is not clear from the historical records whether the Kot Massacre had been preplanned by Jaṅga Bahāḍura or was rather a spontaneous reaction on the part of Jaṅga Bahāḍura, who faced strong pressure from Rājya Laksī Devī to find the murderer of Gagana Siṃha and put him to death. It is obvious in hindsight that Jaṅga Bahāḍura Rāṇā’s being appointed as prime minister, notes that Rājendra was the main plotter of the murder of Gagana Siṃha, against whom he held his low birth and previous activities. However, he does not mention the name of the murderer. Further, J. Whelpton (1983: 57) and K. K. Adhikari (1984: 35) argue that Gagana Siṃha was shot by Lāla Jhā, a Brahmin with a long criminal record. Although S. Kumar’s speculation is convincing that the murder was planned by Rājendra, the reason given by him for Rājendra’s plot seems to be an overly speculative. Since Gagana Siṃha, who was strongly favoured by Rājya Laksī Devī and suspected of being her paramour, held the real power in the palace and Phatya Jaṅga Sāha was merely a puppet mukhtiyāra (see K. K. Adhikari 1984: 28), Rājendra wanted to stop the rise of Gagana Siṃha. The origins of the Kot massacre are highly controversial. The accounts presented by historians are largely similar, but nobody has presented a concrete case that the massacre was plotted by Jaṅga Bahāḍura (see, for example, Wright 1877, Kumar 1967, Whelpton 1983 and K. K. Adhikari 1984). The validity of a document issued by Rājendra Sāha in 1856 in which he claims that he himself had ordered the massacre in several letters addressed to Jaṅga Bahāḍura has been questioned. An edited version of the document appears in M. R. Panta 2013a: 41–42.
minister on the sixteenth of September 1846 put Nepalese politics on a steady course—a precondition for establishing the strong judicial and administrative foundations of a nation-state.

1.4.4 The Emergence of the MA

As pointed out by L.F. Stiller, since the history of Nepalese politics before Phatya Jaṅga was soaked in blood (the prime ministers Bhīmasena Thāpā, Raṇajaṅga Pāde and Māthavara Siṃha Thāpā all died violently), the Kot Massacre did not come as a total surprise. The political chaos in the country after the Anglo-Nepalese War (1814–1816) had reached a climax, the loss of one third of Nepalese territory having resulted in a considerable reduction in revenue, so that the country was rife for political change, and it was Jaṅga Bahādura who offered it. After the Kot Massacre, he was made commander-in-chief of the army and the country's prime minister. His appointments set in place the tradition of both positions being reserved for members of the Rāṇā family, with the Śāha kings now reduced to ceremonial rulers. Although the Rāṇā rulers continued to follow in many respects the path of political isolationism and cultural conservativism, they also showed a certain openness to Western forms of conspicuous consumption, aesthetics and governmental operations. This led to considerable legal and administrative reforms. One major example of the greater willingness to engage with foreign ideas is Jaṅga Bahādura's state visit to London and Paris in 1850, the first trip of a South Asian prime minister to Europe. As soon

166 In 1847 (Sunday, the 12th of dark fortnight of Pauṣa in VS 1904), King Surendra issued a lālamohara to Jaṅga Bahādura in which the absolute authority to collect all forms of revenue throughout the country is explicitly granted to him. Furthermore, the latter was empowered to punish creditors of the state as he best saw fit (see NGMPP DNA 11/47 digital catalogue in http://abhilekha.adw.uni-heidelberg.de/nepal/index.php/catitems/viewitem/1340/1, last accessed on 10 June 2023). This merely underscored the need to re-establish control over the revenue collections systems, which had deteriorated after the death of Bhīmasena Thāpā because of the ongoing political turmoil.
167 After his appointment as prime minister, Jaṅga Bahādura managed to obtain for himself all the facilities once enjoyed by Bhīmasena Thāpā. Rājendra Śāha issued a rukkā on Sunday the 5th of dark fortnight of Mārga in VS 1903 (1847), about three months after the massacre, granting Jaṅga Bahādura all facilities and emoluments due to the head of several offices (see NGMPP DNA 15/91 below, Part II: C, Document 11).
168 See Toffin 2008: 163.
as he returned from his state visit, he formed a law Council (the Ain Kausala)\textsuperscript{171} to discuss the nature of a proposed law code and to set standardized forms for the previously existing legal documents.\textsuperscript{172} The MA was promulgated during the reign of Surendra Šāha (r. 1847–1881), on Thursday, the seventh of the bright fortnight of Pausa in Vikrama Era 1910 and witnessed by Rājendra Šāha and Trailokya Šāha.\textsuperscript{173} Although, as pointed out by K. K. Adhikari, it is uncertain whether the drafting of the MA was a result of Jaṅga Bahādura's introduction to the British legal system during his state visit,\textsuperscript{174} no direct quotation from the British legal tradition can be detected in the MA.\textsuperscript{175} Nor, for that matter, does the MA refer to either any Brahmanical text of scriptural law or any other Western or Islamic code of law.\textsuperscript{176} What is known is that Jaṅga Bahādura, the country's de-facto ruler, established a strong foundation for the unification of diverse judicial practices by promulgating the country's first systematic legal code—one which shares several characteristics with the legal codification that was taking place in colonial India. In both colonial India and Nepal, centralized systems of judicial administration replaced more fluid forms of legal pluralism; the dominance of religious laws giving way to a state-led reform that introduced positivistic notions of legitimacy into the legal norms. The projects to codify Hindu law as a (religious) system of personal law initiated by the British on the basis of orientalist representations of civilization, literate culture and religion and the codification of Hindu customary law by Janga

\textsuperscript{171} The Council, known as Kausala, was comprised of 219 members whose names are recorded in the preamble. These members included Rāṇās (specifically, Jaṅga Bahādura Rāṇā's brothers, sons, and nephews), royal priests (rājaguru), a religious judge (dharmādhikārin), individuals from the nobility (cautarīyā), as well as civil and military officials such as kājīs, captains, lieutenants, vakilas (Nepal's diplomatic envoys to British India, Tibet, and other Asian countries and cities like Calcutta, Patna, Lucknow, and Lhasa), subbās, mīra munsī (the executive head of the Foreign Office), diṭṭhās (judicial officers), mukhiyās, subedāras, and vaidyas.

\textsuperscript{172} See MA-ED2/Introduction, p. 2–7.


\textsuperscript{174} See Whelpton 1991: 218 for a further discussion of this.


\textsuperscript{176} See Michaels 2005b: 7. The relevant source for Islamic code of law is the Ain-I Akbari (see in Jarrett 2010). It is worth noting that the MA incorporates a diverse array of legal terminology, such as ain, muluk, rukkā, pūrjī, umarōvā, mohara, and phalānā. These terms can also be traced back to the 16\textsuperscript{th}-century Ain-I Akbari, a detailed document that records the administration of the Mughal Empire under Emperor Akbar. Due to the limitations of the present study, I am unable to extensively explore the potential influence of Ain-I Akbari on the MA. A separate research on this topic is necessary in order to thoroughly investigate and explore the issue of the potential influence of Ain-I Akbari on the MA.
Bahādura shifted the boundary between private and public spheres and the formation of religious identity. Even as legal texts were being placed centre stage within the judicial process, thus giving translocal and transcultural norms of scholastic-juridical discourse precedence over local customs.\(^{177}\)

According to the preamble of the MA, the major aim of the code was to unify the penal system by prescribing clear guidelines for meting out punishment. Since the legal system had not been uniform earlier, two offenders from two different territories or ethnic groups could easily have received different punishments for the same crime.\(^{178}\) Other aims were to “establish a national caste hierarchy for the multiplicity of Nepal’s ethno-cultural units, to bring about a homogeneous legislative as well as a uniform system of administration and, through such legal code control over remote areas and separate ethnic groups […].”\(^{179}\) Especially in comparison with texts of the dharmaśāstra tradition, the MA is unique, inasmuch 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.”\(^{180}\)

### 1.4.5 The Contents of the MA

The MA comprises 167 Articles that address a range of judicial, administrative, and legislative matters. As noted by M.C. Regmi and A. Michaels, the MA possesses constitutional qualities, granting

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177 See Khatiwoda 2013.
178 This can be extracted from the preamble: […] maramāmilā gardā ekai bihorāmā kasailāi kami kasailāi badhatā sajāya huna jānyā hudā tasartha aba uprānta choḍā badā praṇā sahobāi sata jāta māphika ekai sajāya havas ghaṭi bihorā naparos bhannā nimitta tapasālā bākāi bāndārasameta rāsi kausalai gari kausalāmā ḍhāharyā bāmajīnākā aīn tayāra garna bānī śrī 3 mahārāja jaṅga bahādura rānā ji. si. bi. prāim miniṣṭāra yānda kamyāndar ina ciphalāi hokum bākāi bānīkā aīna […] “[…] since there have been dissimilarities [lit. less than enough for some and more than enough for others: ‘kasailāi kami kasailāi badhatā’] in punishment [imposed] in the same [kinds of] lawsuit (ekai bihorā) until today, therefore, in order to achieve uniformity of punishment according to the crime committed, this Ain has been prepared in response to the following order to the thrice venerable Mahārāja Jaṅga Bahādura Rānā G.C.B. Prime Minister and Commander-in-Chief […].” (MA-ED2/preamble).
179 See Michaels 2005b: 8.
180 Höfer 2004: xxxvi.
a certain level of autonomy to the civil and judicial administration.\(^{181}\) It also classifies the hierarchy within the caste system by bringing the various castes and ethnic groups under five main categories:\(^{182}\) Sacred Thread-wearers (tāgādhārī), Non-enslavable Alcohol-drinkers (namāsinyā matuvāli), Enslavable Alcohol-drinkers (māsinyā matvāli), Impure but Touchable castes (pāni nacalnyā choi chito hālnunaparnyā) and Untouchable castes (pāni nacalnyā choi chito hālnuparnyā).\(^{183}\) The MA codifies a wide range of social, customary and religious practices, such as civil and penal regulations under the caste system, rules of purity and impurity, landownership, debt, inheritance, deposits, marriage regulations, commensality, homicide, witchcraft, slavery, adultery, arson, street cleaning and deforestation. Besides civil and criminal law, it also covers aspects of public law and such constitutional provisions as the appointment and prolongation of civil servants, revenue arrangements and foreign policy. Broadly speaking the 167 Articles of the MA cover the following main legal topics:\(^{184}\)

a) Legislative regulations (Articles 1 and 2)\(^{185}\)

b) Administrative and revenue regulations (Articles 1–14)

c) Procedural law (Articles 6–10 and 15–30)

d) Punishments (Articles 42–47 and 49–53)

e) Personal and civil laws (Articles 22–32 and 95–163)

f) Criminal laws (Articles 41, 56–61, 63–68 and, 82–97)

g) Varia (Articles 61–62, 71, 74–75 and 78–79): witchcraft, gambling, deforestation, farting, spitting and so forth

As noted by D.W. Edwards, the above contents of the MA remind the law of the Mānavadharmaśāstra (hereafter MDh).\(^{186}\) Just like Manu assembles a wide range of social, individual and moral law, so too the MA covers a similar spectrum of topics, with again the Brahmanical caste system as the underlying foundation. The latter, however, is far more differentiated than the MDh in terms of punishments imposed on offenders. For example, the MA, unlike Manu, does not teach how a king, minister or an individual should behave morally and socially, but merely defines the exact punishment for all the offences mentioned in the code. The MA, no longer heterogeneous in nature in the

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183 This will be discussed below (see Part I, 1.7.2).
184 The MA-ED2 contains only 163 Articles.
185 These Articles are given only in the MA-ED1.
manner of the judicial system it replaced, made for a quick disposal of court cases. After the codification of the MA, as pointed out by K.K. Adhikari, no shastric texts had to be consulted regarding certain cases.\textsuperscript{187} According to B.H. Hodgson’s account, before the MA was introduced, legal cases involving questions of caste, inheritance, adoption or wills were strictly followed in accordance with the śāstras.\textsuperscript{188} The remaining cases were adjudicated on the basis of customary practice. The present study will demonstrate that regulations for dealing with homicide do not strictly follow shastric legal categories or prescriptions rather, brings together three different components: shastric and customary practices along with contemporary political thought serving to establish the ‘rule of law’.

Since the MA does not provide specific constitutional safeguards guaranteeing its implementation,\textsuperscript{189} it cannot be said that the MA restricted the absolute authority of the Rāṇā regime. However, it can be argued that the MA became a common basis for the rules of administration and those governing subjects in mid-nineteenth-century Nepal, in spite of some exceptions where the Rāṇā autocracy was above any kind of legislative and jurisdictive constraints.\textsuperscript{190}

1.4.6 The Historical Context

As it has been evident that Jaṅga Bahādura Rāṇā’s codification project did not emerge all of a sudden, preliminary steps in its direction having been taken from the time of Jaya Sthiti Malla to the onset of the Rāṇā regime. Thus, the MA was to a great extent a manifestation of previously existing regulations—some available in written form and others in customary practices—that were recast into a unified homogeneous legal code. However, it is worth discussing the possible driving forces underlying the emergence of the MA. In the following sections, I present some of the more essential factors.

\textsuperscript{188} It is known from the B.H. Hodgson’s account that the Mitāksarā and Dāyabhāga were often consulted during such cases (Hodgson 1880 [vol. 2]: 231–232).
\textsuperscript{189} See M.C. Regmi 2002: 3.
\textsuperscript{190} Aspects of the implementation of the MA will be discussed below (see Part I, 3).
The Economic factor

Due to the intermittent wars against the English or the Chinese-Tibetan forces from 1767 onwards, Nepal's economy was under heavy strain by the time Jaṅga Bahādura Rāṇā took power. Nepal had lost not only two-thirds of its territory under the peace treaty of Sugaulī (1816) between Nepal and the East India Company, but also a considerable amount of revenue that could no longer be collected from the areas lost. The economic crisis kept plummeting in the political turmoil after the fall of Bhīmasena Thāpā. The destabilizing power struggle within the royal place and among the bhāradāras kept the land tenure, ijārā\textsuperscript{191} and lokabhāra\textsuperscript{192} systems from functioning properly. This lack of a centralized command resulted in a considerable loss for the state treasury,\textsuperscript{193} which would soon be exacerbated by the Sino-Nepalese war of 1855. By the time of Jaṅga Bahādura arrived on the scene, therefore a reform of Nepal's economy was long overdue, and this required establishing a unified form of land and revenue management which was possible only under a systemic written law enforceable throughout the country. Towards this end, Jaṅga Bahādura was forced to introduce universal regulations, which allowed him to administer state taxation and revenue flows under his direct command. Consequently, the first twenty Articles of the MA deal with land tenure, with a special focus on tenant–landlord relations. Similarly, the MA contains several Articles on the law of succession and adoption which guarantee that the property of deceased heirless persons comes into the possession of the state. Finally, the unified system of imposing heavy fines on offenders in court cases is further evidence that Jaṅga Bahādura wanted to re-establish a strong economic basis for his regime.

Preserving autonomy from British India

As stated before, Nepal was among a few kingdoms in the South Asian region which protected its sovereignty from the British territorial

\textsuperscript{191} 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.

\textsuperscript{192} It refers to a system in which the local community assumes the responsibility of paying the designated revenue through a representative assigned for that specific purpose.

\textsuperscript{193} See M. C. Regmi 1988 for an overview of the economic history of this period.
expansion. All such efforts before Jaṅga Bahādura were dependent on individual actors. The idea of collective nationhood had not yet developed among the subjects, which were divided along lines of ethnicity, culture, language and caste, and between authorities as well. Jaṅga Bahādura’s seizure of power only made the political constellation that much more unstable, which split the central and local political leaders and networks even further (most prominently, into the Thāpā, Pā̃ḍe, Royal and Jaṅga Bahādura Rāṇā -factions). This prompted some people to seek out contact with the colonial power, thus putting Jaṅga Bahādura at the risk of being removed from his post, by violent means or otherwise. In order to tackle this challenge, Jaṅga Bahādura resorted to pushing the notion both of a strong collective patriotism and a religious identity as means of establishing a strong moral and legal bond between the country’s leaders and its subjects. The creation of the MA, which set the tone for this politically- and religiously-based patriotism—in which king, prime minister and subjects were bound to one another within a legal framework—posed a symbolic threat to British colonialism. For one, the MA restricts unauthorized contact with the colonial power. Actions which resulted in creating enmity with China and British India were regarded as a serious offence for both government officials and subjects. This is manifested in the following citation:

If somebody lies in connection with [some matter] which brings an unexpected calamity [in relations] with China or the English, or which creates hindrances for the realm, he shall be dismissed from his post (jāgīra) and put in prison for 12 years. If he agrees to pay a fine [commensurate with the prison sentence], the fine shall be taken in accordance with the Ain and he shall be taken outside from the city and set free.¹⁹⁴

Moreover, as one strategy for creating a solid religious patriotism, the words ‘Nepal as the only remaining Hindu kingdom in the Kali era’ was introduced into the MA, along with the Brahmanical notion of ‘Christians as Water-unacceptable caste fellows’, which clearly distinguished Nepal from British India and the British people.¹⁹⁵ Against the background that Jaṅga Bahādura himself neither accepted the idea of ‘divine kingship’, one of the basic norms of Hindu orthodox thought, nor was particularly

¹⁹⁴ MA-ED1/2 §10.
¹⁹⁵ See MA-ED2/87 §2.
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invested in other basic Hindu norms, his efforts toward constitutionally formalizing Nepal’s status as a Hindu kingdom can be interpreted as a patent political strategy to hold the line against British imperialism.

Monarchical fear

Unlike Bhīmasena Thāpā, Jaṅga Bahādura Rāṇā’s emergence and his positions as prime minister of the country and commander-in-chief of the army neither could be ascribed to any favouritism nor enjoyed the blessing of royal assent. Therefore, in order to protect his autocratic supremacy, which he had won with much bloodshed, it was not enough to form an alliance with a certain group or to enjoy the support of the monarch. Since king, kingdom and subjects were still regarded as consubstantial, the king was strongly supported by a majority of subjects and political figures, while the opposition to Jaṅga Bahādura represented an enormous threat. Several attempts were made by the king and his followers to regain power by plotting to assassinate Jaṅga Bahādura, but they all came to naught. Therefore, in order to keep the king under control, Jaṅga Bahādura was forced to institutionalize the monarchy as a ceremonial and cultural authority subject to certain legal restrictions, which subsequently were laid down in the MA. In this way, he deftly kept the king from exercising executive powers. However, he did not touch the religious prerogatives of the king. By refraining from doing so, he not only tied the king to the legal-frame but also, very importantly, avoided a possible backlash from subjects who still regarded the king as an embodiment of Viṣṇu.

196 For example, his state visit to Europe in 1850s (Dīkṣita 2011) and his direct support of British efforts to suppress the Indian Mutiny of 1857 (Wright 1877: 63) were not in concordance with the norms of a Hindu state.
197 See Wright 1877: 58.
198 For example, the following section reads: “A king who acts against existing arrangements with foreign powers without prior permission from the prime minister is to be removed from the throne: If an enthroned king, without the advice of the chief minister [i.e., the prime minister], gives an order which [is likely to] spoil friendly relations with the emperors of the south and north, engages in domestic conspiracy and gives orders which corrupt [his] own umārāvas, bhāradāras, army and subjects, he shall be removed from the throne, and it shall be granted to the [next] one on the roll [of succession,] and he shall reign.” (�ड्डिनासिदा राजाले मोख्या बजिराका बिसाल्लाहा उत्तरा दक्षिनका बादासाहसिताको सलातानाता बिग्रन्त्या रा ग्हारा जालसाङ्गा गरी अप्ना अमरावा भारदारा फ्याउजा राइयता बिग्रन्त्या रुकुमा दियार्चा ब्हाने गद्द्योर्का एकाजा गरी गद्दी रोलाले पाउने जो हुन उनालाई डी रुकुमा कलाउनु। (MA-ED1/1 §17).
Nepal's encounter with the western world

Unlike A. Höfer and D.W. Edwards, K.K. Adhikari strongly argues that the MA was not at all influenced by the British legal system, which Janga Bahādura had encountered during his state visit in the 1850s. According to him, “[…] the Ain as a whole was partially customary, yet partially written with the times when it was laid out.” K.K. Adhikari is right that no direct evidence of the British legal system has been detected in the Ain. However, he does not answer the question of how the idea of drafting such a code emerged in an isolated place like Nepal. The conclusions he does come to seem to be based on only certain Articles, those having to do with criminal cases and caste hierarchy. He leaves unconsidered, for example, the Articles ‘On the Throne’ (gaddīko) and ‘On Legislative Affairs’ (rājakājako). The legislative checks and balances between the monarch, prime minister and the Council are clearly demarcated in the MA. On the one hand, any form of executive power is denied to the monarch; on the other hand, the prime minister still can be checked by the king in case of any deviation from the Ain, and the bhāradāras by the prime minister. For example, in one of the provisions on legislative affairs it is stated:

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

Going back to K. K. Adhikari’s conclusion, the mentioned idea of checks and balances was neither a customary practice nor a political necessity of the time. K.K. Adhikari fails to explain why Janga Bahādura—if it was simply his aim to codify customary laws and contemporary social

201 MA-ED1/1.
202 MA-ED1/2.
203 aina bhayāpachi aina bamojim toki chīyākā kurā uṭżaī thorai kurāko dherai dherai kurāko thorai gari phareba garnyā jo cha testālāi mukhtiyārale bhayā rājābāta sajāya garnu aru choṭā budā gairhale aina mici bīnti garnyā daskata garnyā mukhatiyārabāta sajāya garnu. (MA-ED1/2 § 21).
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practices—did not elevate the role of prime minister above any power block, be it the king or the Council. For example, the following provision in the MA explicitly mentions that nobody stands above the sovereignty of the kingdom:

A king who has ascended the throne shall not sell his own land to neighbouring emperors or kings irrespective of whatever large amount he receives [for it]. Even if a king who has ascended the throne orders [it] to be sold, ministers or the Council shall not sell it. If the ministers or the Council—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—sell land within their own boundary to neighbouring emperors or kings, they shall be considered as rebels (apsara) and untrue to the [king's] salt (nimaka harāma). All shall know them as being untrue to the [king's] salt. One can sell land to those who have come with their family and reside as [our] own subjects inside [our] own boundary.

Therefore, I argue that one of the reasons for the emergence of the MA was the inspiration Jaṅga Bahādura drew from the British parliamentary system as witnessed close up on his state visit to Europe. If Ujira Simha Thāpā, who was a minor aristocrat, could base weighty legal recommendations on the British court system even in 1822, it seems plausible that Jaṅga Bahādura Rāṇā, who had directly encountered the British political and legal system in London, could have returned with a vision to reform the Nepalese administrative and judicial system.

204 ‘Namaka harām/halāl’ expresses the conduct of a traitor. For someone to have somebody else's salt means to pay total loyalty to that person (namaka/nūnko sojho). Conversely, not to be loyal to one's master is to deceive him; such a disloyal person is said to be untrue to the [other's] salt (see Banerjee-Dube 2014: 330).

205 sarahadakā vādasāhā rājāharūsanga āphān ājanā kattī dherā rūpāyiā páyā pānī gaddīnasenale navecanu. gaddīnasenale vēca ḍhamṇyā hukuma diyā pānī vajīra kausale ānvedasu hukuma pāī havasa hukuma napāī āphanā tajavijale havasa thoriā jamānakā dherā rūpāyiā pāī havasa āphanā sivānā bhītrako jamāna sarahakā vādasāha rājāsanga vecanyā vajīra kausala apsara nimaka harāma ṭhaharchan. nimaka harāma hū bhānī sansārae jānū. jahāna parivyāra sauit bhū āphanā sarahadamā āi raiyat bhāi vasyākāliāi veca huncha. (MA-ED2/2 § 61).

206 In the account on Jaṅga Bahādura’s journey to Europe (see Whelpton 1983: 177–188), it is recorded how the Nepalese delegation understood the contemporary British political institutions, and this resembles the provisions in the Article ‘On Legislative Affairs’ in the MA. (See MA-ED1/l–2).

207 Jaṅga Bahādura Rāṇā’s enthusiasm for a printing press which he observed during his state visit to Europe and brought back to Nepal, can be taken as
However, the British legal influence on the MA does not take the form of imitating actual English judicial codes. Janga Bahādura did not, that is, directly borrow provisions from the British legal system for the MA. Still, he was visibly inspired by the British concept of a universal rule of law when it came to preparing the general framework of the MA.

1.5 The Characteristics of the MA

In this section, I shall discuss some of the characteristics of the MA which distinguish it from the dharmaśāstra literature, which may be considered to have been still partially dominant in forming the legal practices of nineteenth-century Nepal. The MA will be shown to be a much more modern and secular creation, one more in line with positive law than both nineteenth-century Sanskrit law texts in British India and pre-MA legal practices in Nepal. I will focus on the following points peculiar to the MA: The MA as the first proper codification of law in Nepalese legal history; as a law code constitutional in character and in its establishment of a rule of law; and as deviating from both Brahmanical law scriptures and customary practices.

1.5.1 Codification

In contradistinction to the general opinion, the process of legal codification in the MA neither involved merely recording customs and edicts, nor did it come about because of a sudden direct foreign stimulus. Rather, it arose through processes of collecting previously existing legal practice, introducing new legal norms inspired by the colonial and British legal traditions mixed in with homogenizing, if contradictory, regulations meant to guarantee the universal applicability of the former. During the nineteenth century, such codification took place within “analogous

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210 See Caroni 2016.
practical political contexts”

According to J.E. Wilson, wherever the codification of law took place,

it occurred because political actors doubted their ability to construct viable forms of rule on the basis of existing intellectual and institutional traditions alone. As the networks that sustained ‘old regime’ politics fragmented in the late eighteenth century and the early nineteenth, political actors in many different places adopted new textual techniques and developed new concepts of sovereignty to define and govern social conduct in a more anxious world. Codification occurred where political actors felt a sense of rupture with the past.

For example, as argued by J.E. Wilson, British legal culture harboured deep suspicions against the codification of law in the late-eighteenth and early-nineteenth centuries. Initially, British officials in colonial India tried to regulate inheritance practices of the native population in historically faithful continuity with their legal traditions. However, due to the complexity of the indigenous law, the colonial regime was torn between administering existing and introducing new law. Further, the British administration was not able to understand, identify and act accordingly within the new political, juridical and administrative systems in Bengal. It was thus that the concept of codification gained traction in colonial India. Similarly, after seizing power from the royal dynasty in the mid-nineteenth century, Jaṅga Bahādura felt at variance with the current legal practices, fearing for the stability of his regime if it continued to be based on the previously existing monarchical administration, according to which the king was the final authority in any matter. Therefore, he took the necessary steps towards codification in order to create a uniform legislative space in which the divinity of kingship would be de facto questioned by keeping the king within strong legal bounds, the administration and penal system reformed and standardized, the idea of collective nationhood strongly emphasized, the concept of the rule of law made tangible and various ethnic and caste groups brought under a scheme of five major categories.

212 ibid. 23.
213 ibid. 22.
214 ibid. 22.
215 ibid. 22.
Even though the principles of legal relativism (i.e., different legal norms according to different status groups) and legal pluralism (i.e., different systems of civil law in different areas), both of which, in shaping the MA, limit the scope of its uniformity, one can still argue that they were still placed within a single state-dominated legal framework. Thus, the MA, rather than being a utopia dreamt up by shastric pundits, represented the whole of traditional society operating according to laws that were actually applied.\textsuperscript{216} A. Höfer’s observation is right that the MA was neither an idealized legal composition emerging completely from long-practised orthodox thought nor merely a rewriting of some Brahmanical legal scripture such as the fourteenth-century NyāV. However, the MA was not an entirely secular codification either. For example, the MA itself states that it “was prepared [after observing] śāstrās, [being based on] wise political thought (nīti) [and] practised customs (lokakā anubhava).”\textsuperscript{217} Therefore, the MA can be understood as a unique combination of customary practices, positive law\textsuperscript{218} and some scripturally based orthodox Brahmanical thought. As discussed in the previous section,\textsuperscript{219} one of the chief aims of the MA was the universal application of punishments according to the crime committed and the caste status of offenders.\textsuperscript{220} M. C. Regmi calls this stated aim contradictory, inasmuch as making the caste status of offenders a consideration defeats the whole purpose of a unified system.\textsuperscript{221} Although M. C. Regmi is right that—if the degree of punishment varies according to caste—the code does not offer equal justice under law. Some care is required in order to understand what the following phrase in the MA meant: […] \(aba \text{ uprānta } \text{choṭā } \text{badā } \text{prajā } \text{prāṇi } \text{sabailāi } \text{khata } \text{jāta māphika } \text{ekai } \text{sajāya } \text{havas} \) […] “[…] From now on all subjects, [irrespective of whether they are] higher or lower in rank, shall receive the same punishment according to the crime [committed] and caste status […].”\textsuperscript{222} The relevant Articles of the MA reveal that the caste status of offenders is a matter of import when imposing punishments only in instances regarding bodily impurity and a few other very exceptional cases. For example, Brahmans and women are not to be sentenced to

\textsuperscript{216} See Höfer 2004: xxxvi.
\textsuperscript{217} […] śāstrale nītile lokakā anubhavale banāyāko aina ho. (MA-ED2/1 §1).
\textsuperscript{218} See Lariviere 2004: 612 for a discussion of the term.
\textsuperscript{219} See Part I, 1.3.3.
\textsuperscript{220} See MA-ED2/preamble.
\textsuperscript{221} See M. C. Regmi 2002: 3.
\textsuperscript{222} MA-ED2/preamble.
death for homicide.\textsuperscript{223} Barring such issues, it is impossible to find areas where caste status affects the degree of punishment, be it, for example, in the Articles on legislation, administration, murder or theft.\textsuperscript{224}

1.5.2 A Code with Constitutional Character and the Establishment of Rule of Law

Jaṅga Bahādura Rāṇā is portrayed in historiography very often as an aristocratic \textit{de facto} ruler empowered with all three governmental powers, executive, legislative and judicial. For example, H. N. Agrawal, quoting P. J. B. Rāṇā, characterizes Jaṅga Bahādura Rāṇā as follows:

\[\ldots\] he [Jaṅga Bahādura Rāṇā] was invested powers and privileges of a sovereign character. They were: “(1) the right of life and death; (2) the power of appointing and dismissing all servants of Government; (3) the power of declaring war, concluding peace, and signing treaties with any foreign power, including British, the Tibetans, and the Chinese; (4) the power of inflicting punishments on offenders; (5) the power of making new laws and repealing old laws, civil, criminal and military.” The maharajaship and the absolute powers were made hereditary in his family. And thus, Janga Bahadur made the Rana prime minister, a Maharaja with absolute powers, “as much the sovereign as was Peter the Great of Russia.”\textsuperscript{225}

However, Jaṅga Bahādura’s regime needs to be reanalysed within a larger frame, with due consideration given to the provisions of the MA. The legislative, administrative and judicial autonomy provided by the MA laid the foundation for a constitutional system of government, making the document a unique piece of codified law in South Asian legal history.\textsuperscript{226} The following observations concern what it is that endows the MA with its constitutional character:

\textsuperscript{223} See MA-ED2/64 §1 and §6.
\textsuperscript{224} See, for example, the sections §§1–14 in MA-ED1 and §64 and §68 in MA-ED2.
\textsuperscript{225} H. N. Agrawal 1976: 10.
\textsuperscript{226} See Regmi 2002: 3.
The changed notion of divine kingship: the king’s religious identity and the conceptual separation between king and state

It is likely that in Nepal the concept of the divine king as an ‘incarnation of Viṣṇu’ has its roots in the image of King Viṣṇugupta (r. around 6th century) made in the guise of Viṣṇu. Given the fact that no follow-up documented evidence has so far been found for its validation, as pointed out by M. Slusser, Jaya Stiti Malla is the first Nepalese king to include the name of Nārāyaṇa among the titles of his praśasti (eulogy). The successors of Jaya Stiti Malla held firmly to the conception of the king as an embodiment of Viṣṇu, and therefore the Nepalese kingship in the nineteenth and twentieth centuries was understood in terms of ‘divine kingship’, according to which the monarch is treated as a partial reincarnation (āṃśikāvatāra) of Viṣṇu, and as the focus of the kingdom’s divine ritual. This elevated the king to a position above all positive law. The king as divine entity, an idea central to orthodox Brahmanical thought, is grounded in Brahmanical scriptures. The NyāV, which represents a rewriting of Brahmanical scriptures rather than the codification of new legal norms, remained true to the concept. In this context, R. Burghart argues that at the turn of the nineteenth century, the king of Nepal still saw himself as a divine actor in his realm, and still as an embodiment of the universal god Viṣṇu, his palace being known as a temple. Similarly, A. Michaels states that in the early part of that century the king was still indistinguishable from the state; no separation between king and kingdom existed. It is likely that Burghart’s and Michaels’s perception of Nepalese kingship is the result of their explicit focus on the king’s ritual roles. These assumptions need to be reassessed vis-à-vis the MA, in order to understand nineteenth-century notions of kingship. The Nepalese political elite occupied a heterogeneous, multidimensional ideological space, which provided them great scope for articulating and legitimizing power so

229 Once a king is conceived as the embodiment of Viṣṇu, his absolute divine power can take fives forms: those of Agni, Indra, Śoma, Yama and Kubera (for example, see NārŚm 18.24–31).
230 For example, see NārŚm. 18.13, 20–21.
as to cast a different shade of meaning on the nature of the king as a partial incarnation of Viṣṇu. The MA incorporates notable provisions that establish a connection between traditional notions of kingship and modern conceptions of state structure, marking a significant shift from perceiving the state as a mere extension of the king's household to recognizing it as an autonomous entity. Consequently, the MA introduces a distinct separation between the monarchy and the state, imposing stringent regulations that redefine the monarchy primarily as a cultural and religious institution. The laws outlined in the MA establish that the country's sovereignty is contingent upon its treatment by other nations, transcending internal affairs. While Nepal can be characterized as an oligarchy, if not de facto monarchy, during the premiership of JBR and his esteemed status as the thrice venerable great king (śrī 3 mahārāja), it is crucial to acknowledge that the king himself was subject to strict legal constraints. Violation of specific offenses carried severe consequences, including dethronement, imprisonment, and even loss of caste. These offenses encompass: i) killing his successor by either administering poison himself or having someone else do so, ii) committing unlawful homicide, iii) giving, without the prime minister's advice, an order likely to damage the relationship with the two bordering emperors (southern and northern) or engaging in a conspiracy to harm his own umarāvas, bhāradāras, army and subjects, iv) coming down with a serious disease and recovering through treatment within three years, but rather becoming insane or falling from his caste, or v) selling

234 gaddinasida rājāle āphnā sekhapachi gaddi pāune bhāī chorālāī āphule jahara bikha khuwāī bhayo aru mānisa lağāī bhayo jyāna mare bhan testā rājālāi gaddibāṭa khāreja gari jātapatio gari darjamāphika khāna lāuna di darbārādekhi bāhira najarabandi gari rākhanu. yastālāi gaddi hudaina rolale gaddi pāune jo hun gaddī mā unailāi rākhanu. (MA-ED1/1 § 9, also see § 29).
235 gaddinasida rājāle bekasura benisāphamā āphnā bāhulile kasaiko jyāna mare bhan gaddibāṭa khāreja gari darbārādekhi bāhira najarabandi gari khāna lāuna ijjata di rākhanu. gaddimā gaddi pāune hakawālālāī rākhanu. (MA-ED1/1 § 11).
236 In the early post-unification period, umarāvas denoted commanders of a military post, as mentioned by M.R. Panta (2002: 136), who was responsible for raising and maintaining their own troops. However, over time, the term came to be occasionally used to refer to senior military commanders in general.
237 gaddinasida rājāle mokhya bajirakā bisallāha uttara daksinakā bādasāhasti-tako salatanata bigranyā ra ghara jālasāja gari āphnā umarāva bhāradāra phauja rayataharu bigranyā kuro hukuma diyā bhan gaddibāṭa khāreja gari gaddi rolale pāune jo hun unailāi di hukuma calāunu. (MA-ED1/1 § 17).
238 In this case, he is dethroned but is not put in prison. Further, he should be taken out of the palace and respectfully provided with food and accommodation. (MA-ED2/1 § 24).
land in his kingdom to foreign emperors in violation of a prohibition to do so by the Council and prime minister.\textsuperscript{239}

Especially interesting in this context is that the MA allows the degradation of the king's caste status. Such a provision explicitly questions the divinity of the king. Moreover, it is not only the enthroned king but also other members of the royal family who are put under legal restrictions meant to prevent unhealthy power struggles in the palace. For example, if the next in line to the throne (i.e., the crown prince) kills the enthroned king, he is to be removed from the roll of succession, put into prison outside of the palace and respectfully provided with food and accommodation.\textsuperscript{240} A later son or a brother who is on the roll is to be sentenced to death for doing so, as are other royal princes who are not in line to the throne.\textsuperscript{241} Not only male members of the royal family but also the queen is covered under the law. For example, a queen who kills an enthroned king and plans to have someone else crowned loses her caste, and is fettered and put into prison outside of the palace. In the case where a murder plot is conceived but remains unexecuted, she shall be put into prison outside of the place but not fettered.\textsuperscript{242}

Within the framework of the MA, the relationship between the king, subjects, and state is not solely defined in legal-bureaucratic terms. The government's sphere of activity is also delineated in a manner that emphasizes its role in fostering collective prosperity and safeguarding a shared religious identity. In Nepal, incipient notions of religiously inspired patriotism can be observed in Pṛthvī Nārāyaṇa Śāha's DivU, particularly in the renowned phrase that refers to Nepal as the 'true Hindustan' (asal Hindustān).\textsuperscript{243} However, in the DivU, religious patriotism remains centered around the ruler and can be interpreted as an extension of the ruler's duty to uphold the purity of his realm, rather than a fully developed patriotism grounded in a collective 'we' identity and imbued with a broader socio-economic vision. A more comprehensive conception of religious patriotism finds notable expression

\textsuperscript{239} See MA-ED1/1 § 34.
\textsuperscript{240} See MA-ED1/1 § 10.
\textsuperscript{241} See MA-ED1/1 §§ 12–13.
\textsuperscript{242} See MA-ED1/1 § 14.
\textsuperscript{243} "Give a man only honor, and that according to his worth. Why? I will tell you. If a rich man enters into battle, he cannot die; nor can he kill. In a poor man there is a spark. If my brother soldiers and the courtiers are not given to pleasure, my sword can strike in all directions. But if they are pleasure seekers, this will not be my little painfully acquired kingdom but a garden of every sort of people. But if everyone is alert, this will be a true Hindustan of four jatas, greater and lesser, with the thirty-six classes." (Stiller 1989: 44).
in a section of the MA that pertains to religious endowments. This section begins by presenting three cautionary tales that illustrate the futility of spending money for religious purposes or making cash investments in British India. Building upon these illustrative instances, the MA prohibits both charitable transactions and cash investments in foreign countries, providing the following justifications:

There is a Hindu kingdom whose Ain is such that it bans the killing of cows, women and Brahmins; an independent land of such merit, with a palace, [situated] in the Himalayas (hima-vatkaṇḍa), the land of the [nāga] Vāsuki (vāsukīkṣetra), a pilgrimage place of Āryas (ārjyātīrtha), [the one] that contains Paśupati’s Jyotirlinga and the venerable Guhyeśvarīpīṭha. [This] is the only Hindu kingdom in the Kali era. Henceforth whoever wishes to construct a Śiva temple [or] dharmaśālā (pilgrim shelter) [or] establish a sadāvarta-gūṭhī (guthi) shall find a pilgrimage place in [his] own realm and construct the Śiva temple [or] dharmaśālā [or] establish the sadāvarta-gūṭhī. No one—from king to subjects—shall construct a Śiva temple or dharmaśālā in a foreign realm. Because if [one] has been constructed in [one’s] own realm, [one’s] own offspring can repair it at the slightest damage, [one’s] own realm will be adorned, and whatever realm has a multitude of dharma, no disease, illness or epidemic will come upon it [and] no starvation will occur in it. When one obtains fame for [one’s] own realm, [the result] will be splendour: The architects of [one’s] own realm will become skilful. The poor will be protected since they will

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244 See MA-ED1/4 § 1 and MA-ED2/1 § 1.
245 The first one tells of a Śiva temple and rest-house (dharmaśālā) built by Guru Raṅganātha Pandita in Kāśi having been sold by somebody else without authorization; the colonial administration did not punish this defrauder. The second one deals with a royal endowment (sadāvarta-gūṭhī) at Kedāranātha Temple on British territory that was confiscated by the colonial administration. The third one involves the Nepalese royal priest Vijayarāja Paṇḍita, who lent 10,000 rupees to an Englishman under a mutual understanding of repayment plus four percent interest per year; he received only three percent. Moreover, the suspicion is raised in the Ain that when a person has no male heirs, his daughters will not be able to recover outstanding debts under the inheritance law in British-India (see in MA-ED2/1 § 1).
246 For ārjyātīrtha.
247 A charitable foundation for the provision of food to the poor, mendicants and pilgrims.
receive a salary, and the wealth of one's own realm will not go to foreign wealth or to a foreign realm. These passages show that the monarch within this framework plays an important role as ‘Hindu king,’ symbolizing the purity and uniqueness of the polity. On the other hand, the king is here only one among several markers of this ‘Hindu identity,’ others being the protection of cows, women and Brahmins.

In summary, the monarchical policy outlined in the MA signifies a shift in perception, wherein the king is no longer viewed as the entirety of the polity, but rather as a component within it. While the rhetorical source of sovereignty still attributes a divine essence, often represented as a partial embodiment of Viṣṇu, the king's authority in the MA is constrained by multiple factors. His executive power, ability to dispose of his property, and capacity to establish relations with foreign powers are all subject to limitations imposed by a legal framework that establishes a conceptual separation between the king and the kingdom. This signifies a fundamental change in the understanding of the king's role, highlighting the importance of governance within a defined legal framework rather than absolute authority.

The concept of the ‘rule of law’ has deep roots in western political and legal discourse, particularly within British political and constitutional history. It encompasses a period spanning from the Norman Conquest to the modern era. According to D. Zolo, the leading principles of the English rule of law were...
individuals’ legal equality, irrespective of their status and economic conditions. Notwithstanding individuals’ deep social inequality—which is deemed to be obvious—all citizens are subject, with no exceptions, to the general rules of ordinary law, in particular to the ones regarding criminal punishment and patrimonial integrity. […] normative synergy between Parliament and judiciary, through which the settlement of single cases is in England the result of decisions stemming from two sources that are in fact, if not certainly in law, equally sovereign. On the one hand, there is legislative sovereignty of Parliament, i.e., the Crown, the House of Lords, and the House of Commons, according to the famous ‘King in Parliament’ formula. On the other hand, there is the common law, in the hands of ordinary courts.249

However, the British encountered significant challenges in establishing such a rule of law system in colonial India. The Mughal and Hindu legal systems they encountered were considerably complex and varied greatly across communities and regions. Consequently, the British struggled to comprehend the existing legal practices, resulting in the coexistence of two legal systems: Company law and indigenous law. That is, “the original lack of interest in the life of the non-European communities turned into a deliberate legal dualism.”250 According to L. Benton, the legal dualism resulted in hybrid forms during the Company’s legal history.251 For instance, the ‘Choultry’ judges became Company servants in 1654, and in 1661, the governor’s authority was established over criminal and civil matters. In 1773, the Supreme Court of Judicature at Fort William was established to administer British law to British subjects, Company employees, and Indians who wished to file court cases there.252 However, the complexity of the colonial legal system, shaped by its hybrid nature, necessitated the creation of the role of ‘vakilas’ in 1793 to assist complainants and defendants with formal procedures.253 The involvement of untrained Hindu and Muslim legal experts, such as maulavis for Muslim law and pundits for Hindu law, posed additional challenges for the English understanding of law. Consequently, in the late eighteenth century, the British felt compelled

250 Quoted in Benton 2002: 132.
251 ibid. 132.
252 ibid. 136.
253 ibid. 138.
to commission translations of Hindu legal texts, resulting in distorted variations of both Hindu and Muslim law. As noted by Benton, this provided a justification for the dominance of English law and the relegation of Indian law to a secondary position. Finally, the enactment of the Code of 1860 significantly curtailed the enforcement of Hindu and Muslim law in British India, effectively replacing the indigenous legal systems with the English concept of the ‘rule of law.’

Even though the MA was fostered in such an isolated and conservative non-nation-state as Nepal, it developed a concrete concept of ‘rule of law.’ In the mid-nineteenth century, the Nepalese political actors were not familiar with that European concept on any intimate basis, nor was there any colonial force to directly push for the establishment of such a system. Therefore, it is worth looking at the concept of ‘rule of law’ as conceived in the MA, which was made possible by Jaṅga Bahādura’s encounter with the English rule of law in 1850s. It is striking, for example, that the notion of legality in the MA was extended to apply to the monarch himself. The text states that all—from the king to his subjects—are bound by the law and that deviating from it will result in punishment irrespective of deviator’s status. This can be extracted through the preamble:

[…] whoever does not render verdicts and oversteps his bounds when rendering verdicts or [performing] other [such] acts shall be punished as written in the Ain concerning that subject. […] Having said this, we three generations have ordered that all shall obey this Ain, starting with us and on down to our subjects. All officials (kārindās) including the prime minister shall act in accordance to the Ain.

Similarly, the sovereignty of the Council defined in the MA in a way which resembles the legislative sovereignty of the English parliament, is another noteworthy element ensuring the rule of law. The Council,
representing the military, civil service, judicial domains along with local officials and village notables, is constituted as both the supreme legislative and executive body, as well as source of law.  

For example, the MA stipulates that the Council had final authority to enact new laws, change previously existing laws and add the necessary laws. It is also extracted through the preamble:

[...] this is the volume of law written in response to the following order to the thrice venerable Mahārāja Jaṅga Bahādura Rāṇā G.C.B. Prime Minister and Commander-in-Chief: “Call the Council, which includes the bhāradāras listed below, and prepare an aīn as deemed proper in the Council.” It was instituted on Thursday, the 7th of the bright fortnight of the month Pauṣa in the [Vikrama] era year 1910 with the approval of us members of three generations, [that is, the king’s father Rājendra, King Surendra and Crown Prince Trailokya]. When it is necessary [for a portion] to be corrected or rejected by order of the Council and as witnessed by us, it should be [so] corrected or rejected and added as a new law.

Moreover, the MA has clearly provided constitutional provisions to safeguard the autonomy of the kingdom. Not only the king, prime minister and subjects but also the autonomous Council was subordinated to higher state interests. The realm is no longer conceived solely as anybody’s possession, but is itself regarded as the fundamental principle, as embodied in the territorial integrity of the state. For example, Section 34 ‘On the Throne’ and Section 61 ‘On Land’ contain regulations which prohibit the king, prime minister, Council and subjects from selling land to foreign governments or foreign subjects. This fits in with Burghart’s observation that around 1860 the notion of a boundary...
meant to delineate sovereign spaces gained acceptance as something to be established and preserved.\textsuperscript{260}

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.\textsuperscript{261}

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.\textsuperscript{262}

\textsuperscript{260} See Burghart 1984: 101–125.
\textsuperscript{261} \textit{sarahadakā bādasāha rājāharūsamba āphnu jamīna katti dherai rūpaiṇā pāye pani bajīra kausalale bebarjita gari gaddinasidale becyo bhanyā testā rājālāi dumīlāle badalana huncha. hukuma pāī havas napāī āphnā tajabījale havas thori jamīnako dherai rūpaiṇā pāī havas āphnā sibānābhtrako jamīna sarahadakā bādasāha rājāsamga becanyā bajīra kausala apīsara pani nimaka harāma thaharchan, yaṣṭā nimaka harām hun bhani jānu. (MA-ED1/1 § 34).}
\textsuperscript{262} \textit{sarahadakā bādasāha rājāharūsamba āphanu jamīna katti dherai rūpaiṇā pāye pani gaddinasenale nabecanu, gaddinasenale beca bhanyā hukuma diyā pani bajīra kausalale nabecanu, hukuma pāī havasa hukuma napāī āphnā tajabījale havas thori jamīnako dherai rūpaitā pāī havasa āphanā sivānā bhūtrako jamīna sarahadakā bādasāha rājāsamga becanyā bajīra kausala apīsara nimaka harāma thaharchan, nimaka harāma hun bhani sansārale jānu, jahāna pariyāra smait bhai āphnā sarahadamā āī raiyat bhai basyākālāi becau huncha. (MA-ED1/5 § 61).
The mentioned sections of the MA reveal that the state has emerged as an autonomous entity to which one pays loyalty. Especially interesting in these passages is the expression of collective identity, which binds everyone belonging to the country under a single rule of law and puts the interests of national sovereignty above any other kind, be it personal or institutional.

**Jurisdictional autonomy and normative synergy between the Council and the judiciary**

As pointed out by D. Zolo, the sovereignty of parliament and independence of ordinary courts in making and administering statutory law have made British constitutional practices a lodestone in the political and legal history of the world. Such domestic practices led British colonial governments to introduce similar systems in their colonized territories. The British attempt to introduce positive law in colonial India can be taken as one such example. The social, political and legal systems of pre-colonial India and pre-MA Nepal were pretty similar. Given the large number of indigenous groups and their individual legal, administrative and judicial practices, the emergence of homogeneous legislation which could be widely implemented was not readily possible. Still, the MA appears to have been just such a unique piece of legislation. Including as it does power-sharing provisions among the king, Council and prime minister and allowing for the independence of the courts, it bears one of the most essential prerequisites of a constitutional form of government. The MA devotes several chapters to dealing with judicial procedure. As pointed out by K. K. Adhikari, the MA displays three important judicial features: it ensured for a quick disposal of lawsuits through a host of provisions that covered all important aspects of indigenous society; it replaced multi-faced scriptural Brahmanical law, which had been used for conducting lawsuits in the pre-codification period; and finally, to a great extent it provided unified and independent jurisdictional practices. More importantly, the courts were bestowed with a considerable degree of autonomy. To safeguard this autonomy, the MA explicitly protects judges from being influenced by

264 For example, Articles 34–37, 40–48 and 53 of MA-ED2 figure prominently in this regard.
any authoritative actors when handing down court decisions. This is exemplified in the following section:

Court judges, *ditthās* and *bicāris*, [and] the heads of *ṭhānās*, shall decide matters on the order of lawsuits in accordance with the *Ain*. Even if an [oral] order or an order [in the form of] a *lālamohara* from the king or a signed directive (*daskhat*) from the prime minister to decide a lawsuit [in a way which] deviates from the *Ain*, [the above persons] shall not obey them. Lawsuits shall be decided in accordance with the *Ain*. They (i.e., judges etc.) shall not be fined or convicted of committing a crime for having disobeyed such a *lālamohara*, *daskhat*, *hukuma*, *marjī*, *oral order* or *pramāṅī*.

Further, section 21 on ‘Court Affairs’ makes the relation clear between courts and the Council, the supreme legislative body. The MA directs courts not to forward to higher authorities any lawsuit which can be conducted under the legal code. To be sure, lawsuits which cannot so be dealt with are to be brought to the Council.

When deciding disputes or court cases, the heads of courts or *ṭhānās*, the heads of the east and west frontier courts or *dvāryās* of *amālas* need not refer [them] to the Council as long as a matter written about in the book of the *Ain* is before them. They shall decide [such cases] on their own. If they do not decide [such] lawsuits on their own but refer [them] to the Council, he who refers [them] to the higher authority shall be fined (if he is the head of a court) 20 rupees, (if a *ditthā*) 10 rupees,

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266 *adālatakā hākima ditthā bicāri ṭhānākā mālikale aina bamojima nisāpha milyākā kurā chimu. ainadekhī bāhekako nisāpha gari chinī deu bhani sārākako hukuma bajīrko marji ājñā pramāṅagī ra sārārako lālamohora barjiko daskhat bhai ayā pani namānū. aina bamojimako nisāpha gari chinidīnu. mohora daskhat hukuma marji ājñā pramāṅagī mānen bhāni inlāi jarivāna takṣira kehi lāgdainā. (MA-ED2/45 § 2).*

267 A police or military office with judicial functions.

268 *(Written)* order, especially from the king or members of the Rāṇā family.

269 *(Prime ministerial)* order.

270 Order or authorisation letter from the king, prime minister or a high-ranking government official.

271 A village level revenue collection office with judicial functions. In the MA, *adālatas*, *ṭhānās* and *amālas* were the central institutions for judicial administration.
1.5 The Characteristics of the MA

(if a bicāri) 5 rupees, and (if a bahidāra\textsuperscript{272} or the dvāryā of an amāla) 5 rupees. If lawsuits come up which either have not been written about in the Ain or conflict with details in it, they shall be referred to the Council. The Council shall act the matter and shall on due consideration have [new provisions] written into the Ain if needed to be written into law. If the details of it conflict [with the Ain, the Council] shall straighten out the details and define how to decide [such matters in the future].\textsuperscript{273}

Furthermore, the MA not only provides that the judiciary will remain loyal to the nation but also explicitly provides safeguards that it will adjudicate properly, as the following section demonstrates:

From now onwards, when punishing or fining any [type of] offender or carrying out according to the Ain [such] other court-related matters [as] tax [audits], [annual] revenue due or account clearings, [the addā,\textsuperscript{274} adālata,\textsuperscript{275} ṭhānā or amāla] shall bring the Ain to bear and write down their pronouncement, stating: ‘Perform such and such an action in accordance with such and such a section of such and such an Article.’\textsuperscript{276}

\textsuperscript{272} Bahidāra literally translates to ‘record-keeper’. It refers to an accountant, clerk, or scribe who serves as a civil functionary entrusted with the task of writing official documents. The bahidāra holds a higher rank than the nausindā, as mentioned in K. K. Adhikari (1984: 345).

\textsuperscript{273} adālata ṭhānākā hākima ra pūrva paścima adā gaudākā hākima amālakā dvāryāharule jhai jagarā gaihra māmilā chīmdā ainakā kitābamā lekhiyāksamnakā kāma kurā pari āyāṃā kausalā sādhānu pardainā. aina bamojima āphaile āti chindinu. ainamā lekhiyāsamnakā kurānā āphaile nachini kausalā sādhānu āyā bhanyā adālatakā hākimalāi 20 diṭṭhālāi 10 bicārilāi 5 bahidā[ra] ra amālkā dvāryālāi 5 rūpaīyākā darale jasale sādhana āucha uslāi jariyānā garilinu. ainamā bihora namilanyā kurā pari āyā bhanyā kausalāmā sādhānu ra kausaliyāle tajabīja gari ainamā lekhānu parnyā kuro rahecha bhanyā aina tajabīja gari lekhāi dinu. bihora namilnyā kuro rahecha bhanyā bihora milāi estā tarahale china bhani toki dinu. (MA-ED2/35 § 12).

\textsuperscript{274} Firstly, addā refers to a law court that holds authority over adālatas (lower courts), ṭhānās (police stations), and amālas (revenue offices). Secondly, it denotes an office, post, or station where state functionaries perform their duties.

\textsuperscript{275} Adālata refers to a law court located at the district level or in frontier areas. It holds authority over ṭhānās (police stations) and amālas (revenue offices), serving as a higher-level court in the judicial hierarchy.

\textsuperscript{276} aba uprānta adā adālata ṭhānā amālabāṭa bābati baiḥralāi damḍa sajāya gardā ra arū māmilā hisāba kitāba āsila bākā pharaphāraka gaihra aina bamojimkā kāmakurā gardā aina milāi phalānā mahalkā eti lambarakā ainale yo kuro garihnu bhāṃnyā janāi leṣanu. (MA-ED2/35 § 19).
Especially interesting in this context is the normative synergy between the Council and judiciary. On the one hand, the courts owe loyalty to the Council as the supreme legislative body, while on the other hand the autonomy of the courts is explicitly mandated, the court officials being directed not to consult the Council as long as court decisions can be made on the basis of the written provisions of the Ain. The mentioned separation of powers between the Council and judiciary implies that the state was designed to be a polity of autonomous, mutually complementing forces to which state employees including all high-ranking and local actors owed collective loyalty. The implementation of the MA’s juridictive provisions, as shown in the excerpt above, is bolstered by its directing judges to cite the Articles and sections of the MA pertinent to their court decisions. Although the provisions given in the MA bear witness to a solid conceptual development of the autonomy of civil and judicial administrative functions, the extent to which such autonomy had a long-term impact on the Nepalese political cultural needs to be analysed within a larger frame.

1.5.3 The Legitimation of Foreign Diplomacy

Pṛthvī Nārāyaṇa Śāha in his DivU expressed the geographically sensitive location of the Nepalese kingdom famously as ‘a gourd between two rocks.’ Consequently (he added), “Maintain a treaty of friendship with the emperor of China. Keep also a treaty of friendship with the emperor of the southern sea (the Company).”277 In mid-nineteenth-century Nepal, foreign diplomacy continued to be crucial because of a possible threat to the country’s political and economic autonomy, especially from the colonial government in British India. Jaṅga Bahādura, too, needed to carefully craft his foreign diplomacy towards both neighbouring imperial powers, British India and China. Before the emergence of the MA, Nepal had been stationing envoys at strategic places.278 Jaṅga Bahādura felt the absence of a unified foreign policy as a potential enormous threat from alliances against him. It was possible that anybody who was against him could at any time plan a domestic conspiracy, especially involving an alliance with the southern colonial power. Therefore, through the vehicle of the MA, he paved

277 Stiller 1989: 42.
278 See M. Bajracharya, Cubelic & Khatiwoda 2016 and 2017 for a further discussion about the envoys stationed in colonial India by Nepal.
the way for a clear foreign policy by introducing a centralized foreign diplomacy apparatus under strict supervision within the state's legal framework. This helped to prevent unauthorized encounters between domestic actors with non-domestic powers, as the following section spells out:

Somebody who lies about [a matter,] thereby bringing about unexpected calamity [in relations] with China or the English or creating [other] hindrances for the realm, shall be dismissed from his post (jāgīra) and put in prison for 12 years. If he agrees to pay a fine [commensurate with the prison sentence], the fine shall be taken in accordance with the Ain and he shall be taken outside the city (i.e., sent into exile). Whoever practises fraud or deceit regarding matters relating to China or the English shall, after [due] consideration by the Council, be put in prison for 6 years. If he agrees to pay a fine of 5 rupees per month, he shall be freed.279

This section of the MA shows that actions creating rancour with China and British India were a serious offence, whether committed by government officials or ordinary subjects. Moreover, the MA not only prohibits subjects from creating enmity with the neighbouring powers but also explicitly forbids the king and prime minister to do so. This is stated in the following sections:

If a king who has ascended the throne gives, without the advice of the chief minister (i.e., the prime minister), an order which [is likely to] spoil friendly relations with the emperors of the south or north, engages in domestic conspiracy or gives orders which corrupt [his] own umarāvas, bhāradāras, army and subjects, he shall be removed from the throne and it shall be granted to the [next] person on the roll of succession; that one shall reign.280

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279 cīna amgarejasita batyāsa parnyā muluk sanbadhī khalala hunyā kuro dhātanyālāi jāgirabāta khāraja gari 12 varṣa kaida garnu. rūpaiyā tircha bha- nyā aina bamojīma rūpaiyā lī sahara bāhira gari choṭidinu. cīna amgreja san- bandhī kurāmā phareba jālasājakā kurā garnyālāi kausalabāta tajabīja gari 6 varṣa kaida garnu. rūpaiyā tircha bhanyā mahinākā 5 rūpaiyākā darale li chāṭidinu. (MA-ED1/2 §10).

280 gaddinasida rājale mokhya bajirakā bisallāha uttara daksinākā bādasāhāsi- tako salatanata bigranyā ra ghara jālasāja gari āphnā umarāva bhāradāra phaunja raiyatatharū bigranyā kuro hukuma diyā bhane gaddibāta khāre jari gaddi rolale pāune jo hun unailai di hukuma calāunu. (MA-ED1/1 §17).
If a minister joins forces with other kings, northern or southern, and is set to hand over [to them] the king's realm (rājāko muluka), such a minister shall be executed.\textsuperscript{281}

Jaṅga Bahādura was aware that only peaceful and friendly relations with British India could secure the autonomy of the country, and by extension his own regime. This is why the MA adopted such norms of interstate foreign diplomacy as diplomatic immunity:

If an envoy or resident from China or England commits homicide or any [other] crime after coming to our realm, the courts of [our] own government shall not investigate the case. Their [own] government shall be written to.\textsuperscript{282}

The MA, then, not only concerns itself with civil and criminal justice, administration and the regulation of social order, but also sets up norms for the conduct of international diplomacy.

1.5.4 The Reform of Brutal Corporal Punishment

A penal reform that established more lenient forms of punishment is another key feature of the MA, particularly in the case of punishments imposed for committing certain heinous offences. A document issued in 1805, which was copied for the Regmi Research Collection,\textsuperscript{283} can be taken as an example of the brutality of punishment during pre-MA times. It contains the decision handed down, probably by the king, on a lawsuit forwarded by an anonymous local judicial official and involving adultery committed by a slave with an unmarried girl belonging to the Alcohol-drinking Magar caste. Addressed to an amālī,\textsuperscript{284} it directs him to punish the slave by taking out his eyes and cutting off his nose,

\textsuperscript{281} bajirale rājāko muluka aru utara daksinakā rājāsita mili dina lāgyo bhane testā bajiralāi kāti māridinu. (MA-ED1/1 § 33).
\textsuperscript{282} cīna aṃgrejakā ukīla bakīla rajiṭante hāmrā mulukmā āi kehi khuna taksīra garyā bhanyā tinako nisāpha āphnā sarkārakā adalatabāṭa herna hudaina. unaikā sarkāramā lekhī paṭhañnu. (MA-ED1/2 § 17).
\textsuperscript{283} See NGMPP E 2426/187.
\textsuperscript{284} An amālī is the chief of an amāla office, which is a revenue functionary responsible for a regional administrative unit. The amālīs hold judicial powers within their role.
ears and genitals. B. H. Hodgson also records similar forms of punishment being carried out in 1826. These practices were based on the dharmaśāstras. The NyāV prescribes barbarian forms of punishment even for minor offenses. For example, if somebody out of spite spits at or urinates on a person belonging to a higher caste, the king is to have respectively his lips or penis cut off. Such cruel forms of punishments are notably absent in the MA. Thus, the MA sentences a slave to death only in the case of having intercourse with the wife, daughter or sister-in-law of his master, or having intercourse with unmarried girls below the age of eleven who belong to a Sacred Thread-wearing and Alcohol-drinking caste. In similar cases involving persons other than the ones just mentioned, the punishments are branding, imprisonment, a fine or enslavement depending on the conditions. Similarly, the ban on interrogation by ordeal or divine means (dīvyaparīksā or niṇā in the MA) is another big step forward for penal reform in the MA.

The first occurrence of the concept of ordeal in Indian classical literature, according to R. W. Lariviere in the Āpastambadharmasūtra (hereafter ĀpDhS), shows the long history of practising such interrogation methods. The NyāV follows along in the same tradition, providing a detailed description of the five following forms of divine interrogation to be undergone by suspects accused of having committed heinous crimes such as theft, murder and adultery: balance (ghaṭa),

285 21 num āge dhādiṅgakā amālī pratī. tāhā vāphala chāpamā kamārāle kamnyā magaranīta būrāma bhayacha ra tāhākā bhalā mānīsa basī kerda kamāro kāyala bhayecha ra hāmrā hajūra binti garī pathāyāchau. testā karma gar- nyālāī ākā ḫiknu. nāka kātanu. kāna kātanu. nalaphala kātanu. yeti sāsmā garī chāddidinu. īī samvat 1862 sāla miti jyeṣṭha sudi 6 roja 2 sū[bham]. “21 number. To the amālī of Dhāding. You sent me a request [asking for my judgement in a lawsuit in which] a slave committed adultery with a Magara / Magar unmarried girl there, at the place [called] Vāphalachāpa, and he confessed [his crime] when interrogated by a [village] notable there. [Therefore] take out the eyes of the slave who did such a thing, cut off [his] nose, cut off [his] ears [and] cut off his genitals. Inflict such punishment and set [him] free. Monday, the 6th of the bright fortnight of Jyeṣṭha in the [Vikram] era year 1862. May there be auspiciousness.” (NGMPP E 2426/187).

286 See in Adam 1950: 164–168.


288 avanīṣvīvato (!) darpād vā vāṣṭau (!) chedayen nrpaḥ. avamātrprayataḥ śiṣṇum(!) apaśābaya(!) gudat(!). (NyāV, p. 245, parallel in NārSm 15/16.27).

289 See MA-ED2/161 §1 and §10–11. However, a slave belonging to a Sacred Thread-wearer caste is not sentenced to death for having intercourse with a virgin girl from an Alcohol-drinking caste (MA-ED2/161 §11).

290 See MA-ED2/161 for a more detailed overview of this issue.


292 P. Olivelle (2000: 10) dates this text to the beginning of the third to the middle of the second century BCE.
fire (agni), water (udaka), poison (viṣa) and holy water (koṣa).\textsuperscript{293} B.H. Hodgson’s account verifies that such techniques were practised during Nepal’s pre-MA period.\textsuperscript{294} However, the procedures for the water ordeal presented in his account differ from the NyāV.\textsuperscript{295} In this context, K.K. Adhikari\textsuperscript{296} argues that trial by ordeal was a common practice in disputes over debts before the beginning of Rāṇā rule. Nevertheless, available evidence does not suggest that trial by ordeal was a very common practice. For example, according to Hodgson,\textsuperscript{297} interrogation by ordeal could only be carried out upon approval of the king, and only when both parties, the complainant and defendant, agreed. F.B. Hamilton\textsuperscript{298} does note, though, that after the Gorkhālī conquest the practice of trial by ordeal became more frequent. B.H. Hodgson for his part states that trial by ordeal was conducted in not only civil but also criminal cases.\textsuperscript{299} In any event, the MA completely abolishes trial by ordeal. Under it, a judge who interrogates an offender by having him held under water would be similarly treated if the suspect dies.\textsuperscript{300} Furthermore, judges who base their decisions on ordeals are fined twenty rupees. Such decisions are rendered invalid and the case is brought before the court again. The MA explicitly provides for conducting trials on the basis of formalized procedures of interrogation.\textsuperscript{301} Similarly, it abolishes some previously existing cruel practices, such as the siṭhi jujha—a vigorous stone-throwing festival, which was started by Guṇakāmadeva at the Kaṅkeśvarī Kālī temple in Kathmandu and continued to be held annually.\textsuperscript{302} Now, though, anyone who played such a game was liable to a fine of two rupees. If the fine was not paid, the culprit was put into prison.\textsuperscript{303} This and similar regulations were applied throughout the country,\textsuperscript{304} the strict ban on widow burning being especially noteworthy.\textsuperscript{305}

\textsuperscript{293} ghato ’gnir udakaṃ visam koṣaś ca paścamah (corr. pañcamah) (NyāV, p. 301, with a parallel in NārSm 20.6).
\textsuperscript{294} See Hodgson 1880 (vol. 2): 220–223.
\textsuperscript{295} NyāV, p. 311–313, with a parallel in NārSm 20.25–31.
\textsuperscript{296} See K.K. Adhikari 1984: 291 fn. 188.
\textsuperscript{297} See Hodgson 1880 (vol. 2): 220.
\textsuperscript{298} See Hamilton 1819: 103.
\textsuperscript{299} See Hodgson 1880 (vol. 2): 221.
\textsuperscript{300} See MA-ED2/49 §1.
\textsuperscript{301} See MA-ED2/49 §2.
\textsuperscript{302} See Wright 1877: 156 and also M. Bajracharya & Michaels 2016 (vol. 1): 59.
\textsuperscript{303} See MA-ED2/55 §1.
\textsuperscript{304} See MA-ED2/55 §2.
Summing up, the MA was Nepal’s first proper codification of law in which the concept of positive law was introduced as the guiding principle meant to place the country’s sovereignty above any individual or certain powerful institutional interest. The concept of the rule of law was established, being grounded in the autonomy of the courts and in the Council as both the supreme legislative body and the final interpreter of the Ain whenever legal norms collided. While it is on the whole a homogeneous code of law, the MA, interestingly, still accepted a certain amount of legal relativism and legal pluralism within its unified legal framework. The specific ways in which it attempted to balance such dichotomies as patrimonialism and independent statehood, royal sovereignty and legal strictures on the king, divine kingship and patriotism is a reminder that global concepts require careful historical contextualization if some semblance of rationality to national trajectories is to be reconstructed.

1.6 The Various Ains: An Overview

The MA of 1854 was gradually refined, amended and expanded, often incorporating ad hoc ideas, and hence the different versions each stand out for a range of diverse notions, formulations and editorial characteristics. K. K. Adhikari notes major amendments of the MA in 1862, 1872, 1888, 1904, 1910, 1918, 1923, 1927–1928, 1930, 1933, 1942, 1947–1948 and 1955. The last version of the MA dates from 1962, and is vastly different from the first. In this section, I shall present the major amended versions of the MA.

1.6.1 The Major Amended Versions of the MA

The 1865–1867 version

K. K. Adhikari opines that one of the first major revisions of the MA of 1854 was executed in 1862. However, his assumption is neither referenced, nor has the edition in question ever surfaced. In his defence, A. Höfer notes an amended version prepared between 1865 and 1867.

(VS 1922–1924) that was neither completed nor published. As discussed above, scholars who have immersed themselves in the study of the MA often consider MA-ED2 to be the same as the first version, MA-1854. Nevertheless, the preface of the printed edition clearly states that it is based not on the Ain prepared in 1854, but on a copy of the amended version of it prepared between 1865 and 1867 (VS 1922–1924). For example, section five of the Article ‘On Adultery’ was deleted in MA-ED2, which is but one event in the continuous transformation of the MA.

The first amended version added some new Articles and provisions, and deleted and corrected a number of sections. Although this version does not feature any fundamental change to the first edition of the MA, it nevertheless testifies to an ever-increasing wish to improve the original code.

The amended version of 1870

The MA was amended for the second time in 1870 (VS 1927). Although the 1870 version again exhibits only a few changes to its predecessors of 1854 and 1865–1867, some of them turn out to be, in fact, quite crucial. In order to safeguard parity before the law, for example, the MA of 1854 had explicitly strengthened the power of the judges to the extent of allowing them to put the prime minister himself into prison were he to issue unlawful orders or indulge in nefarious activities:

309 See Part I, 1.3.
310 [...] 1910 mā lekhieko mīla prati sāthai tyo bhandā pachi lagābhoga 1922–24 tira lekhieko arko prati pani yo sāthai yasa mantrālasālāi prāpta bhaeko thiyo. tara yasa pratimā so avadhībhītra thapieka ra khāreja bhaekā sameta milāi lekhieko dekchinch. [...] yasa prakāśanako lāgi pachillo pratilāi lieko cha. “[...] The ministry received an original copy [of the MA] written in 1854 and another copy [of the MA] written around 1865–1867. It seems that the latter copy was written with portions being added to and deleted from [the former] during that time. [...] The later copy [is what] has been taken for publication.” (MA-ED2/preface).
311 The title of the Article seven of the Ain proves that this edition contains text that is later than this span of dates: 22 sāla aghidekhī rakam bujhāuṃyā ain (the Regulations on the Fulfilment of Revenue Contracts before the Year [VS] 1922). See also Fezas 1990: 130.
312 See MA-ED2/134 §5.
313 For example, the Article 7 is added in the first emendation (see MA-ED2/7).
314 K.K. Adhikari (1976: 107) mentions that a major amendment of the MA was made in 1872. However, no such version has so far been recognized by the scholarly community. It is not impossible, then, that this was a simple slip of the pen, Adhikari having intended to write 1870.
If a pramāṅgi (written order) is issued by the thrice venerable great king, prime minister, general, colonel or any other person to the hākima/head of a court directing him to set free a person who has been put in prison for having confessed to a crime but who has not yet signed a letter of confession or is still under interrogation, the hākima/head of the court shall once write [pertinent] details [to the issuer of the pramāṅgi]. If the [pramāṅgi] is again issued even after declaration of [pertinent] details, [the hākima/head of the court] shall put [the issuer of the pramāṅgi] into prison. If the hākima/head [of the court] fails to put [the issuer of the pramāṅgi] into prison, he (i.e., the hākima/head of the court) shall be fined 5 rupees.

In something of a backlash, however, the MA of 1870 retracted much of the judiciary’s authority and immunity by adding a new section, which elevates high-ranking government officials above the Ain, as demonstrated clearly in the following:

If the king, minister, general, cautarīyā, royal priest, colonel, kājī, saradāra, bhāradāra [and] so forth gives an order to the hākima/head, diṭṭhā, bicārī, amālī or dvāryā [and] so forth of an addā, gauḍā, adālata or thānā to reverse a court decision (lit. to have the winner lose and the loser win) [in a manner] that is not in keeping with the Ain, they shall request [the giver of the order,] saying: ‘We have taken an oath to uphold the dharma, so we cannot do something that, by committing injustice, will lead us to hell.’ If an order is given even after such a request is made, in spite of the fact that an injustice would be done according to

315 adālatmā adālatakā hākimale anyāya garnyālai käyelanāmā lekhāi sahi hālena bhani thunyākā belāmā aha āvā pūrpaśa garnālai thunyākā belāmā chodi deu bhani pramānaṇgāi śrī 3 mahārājako prāimministara janarala karnela arūko ayo bhanvā eka pataka esto behorā ho bhani janāi pathāmu. janāiopatha pani pberi chodi deu bhanvā pramānaṇgāi ayo bhanvā pramānaṇgāi bhai āunyālai thumidinu. pramānaṇgāi bhai āunyālai thāmā sakena bhanvā adālatakā hākimalei 5 rūpayā jarivānā garnu. (MA-ED2/45 § 3).

316 Gauḍā (Gaũḍā) has multiple meanings and functions. Firstly, it refers to a fortification or fortress. Secondly, certain districts were known as gauḍā, specifically Doti, Salyan, and Palpa in the West and Dhankuta in the east, as described by Adhikari (Adhikari 1979: 16). Thirdly, gauḍā also signifies a district office responsible for maintaining law and order in the districts referred to as gauḍā. According to Adhikari, these judicial offices were initially under the supervision of military officials, such as kājīs or sardāras, and later under generals and colonels. In the MA, the chief officer of a gauḍā is referred to as hākima or mālika.
the Ain, [the hākima/head etc.] shall request [the following]: ‘Issue the order [in the form] of a [lāla]mohara or daskhata [to that effect], and I shall act accordingly.’ If a lālamohara or daskhata is issued, he shall do as written in the order. […]\(^{317}\)

In a marked departure from earlier versions, the MA of 1870 introduces the practice of tying the execution of justice to a solemn vow, a written oath in the name of divinity and the dharma being required of judges set to be appointed to the courts.

During the annual re-allotment of posts (pajanī) [including] assigning the government positions of head/hākima of a court, diṭṭhā, bicārī and so on down to chief clerks, the mukhtiyārā shall assign (dinu) [the posts] to those who are capable of working and deemed able [to do so] in accordance with the Ain. He [the mukhtiyārā] shall not assign these posts to persons who are not worthy of them or who have been convicted of committing a crime. When assigning [these posts], [the mukhtiyārā] shall have [the qualified candidates] write a statement to the effect: ‘I shall hand down judgements in accordance with the Ain regarding matters dealt with in the Ain, bearing ethics and the dharma in mind to the extent that my intellect and insight can. If something turns up which is not [dealt with in the Ain], I shall refer the matter to the sarkāra and shall act on his [written] orders, being true to his salt. If I do any injustice—take a bribe or show favouritism—[authorities] shall deal [with me] in accordance with the Ain.’ If the re-allotment is not done accordingly, [the assignment of positions] shall be refused.\(^{318}\)
Similarly, section 3 ‘On Court Arrangement’ no longer explicitly prescribes punishment for the prime minister if he deviates from the legal norms set out in the *Ain*. It is all the more interesting that religious sentiment here asserts itself over standards of jurisprudence established by the MA of 1854:

If it is known that, the king or the brothers or sons of the minister have interfered in a lawsuit by reversing the [court] decision (lit. by having the loser win and the winner lose), the minister shall undo such [a decision] and justice shall prevail in accordance with the *Ain*. If the minister does not do so, or if he himself, as the minister, reverses [a court decision] (lit. has the loser win and the winner lose), having taken a bribe, he shall be declared a bastard's son (lit. born of two fathers) and untrue to [the king's] salt. [Such] a minister shall be punished; by order of His Majesty, and if not by him, then the Lord will punish [him].

The interesting phenomenon here is that the MA of 1870 steps back from the secular juridictive practices put in place in the MA of 1854 to empower the courts with absolute autonomy. The MA of 1870 started limiting the autonomy of the judiciary with the aim of strengthening Rāṇā authority. In addition, editorial and linguistic changes apparent in the MA of 1870 markedly simplify the complex language structure of the 1854 MA, with many small sections supplanting what previously were long paragraphs ceremonial in tone. Unnecessary provisions have been deleted, and long sections have been rephrased. Illustrative of this stylistic reboot is a point to the fact that both the MA of 1854 and the first amended version narrate three lengthy stories to highlight reasons why one should not invest one's fiscal resources in foreign lands, whereas the MA of 1870 dispenses with such didactic elements and merely formulates restrictive bans on investment in foreign lands.

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319 rājāle ra bajirakā bhāi chorā kaisaile kasaikā jhajhagadā gaihra māmilā parnyāmā hārnyālāi jītaunyā jītaunyālāi hārūnīyā gari chināyāko rahecha bhanyā testā māmilā bajirale utāi aina bamajima nisāpha garidinu. eti kurā nagarnyā ra arkāko ghusapesa khāi āphu bajira bhāi jītaunyālāi hārūnīyā hārnyālāi jītaunyā dui bābule jannāyāko nīmaka harāma bajira ṭhaharcha. inalāi jarivānā garnu. śrī 5 mahārājadhīrājakā hukuma vāhābīta nabhayā iśvare sajāe garan. (MA 1870 p. 77 §3).


321 See MA-ED2/1 §1.
countries: no one—from king to subjects—is to construct a temple, dharmaśālā, rest house, bridge, water spout, pond, resting place (cautārā), cremation site, well, garden or the like in a foreign realm.  

The amended version of 1885/1888

Another major alteration of the MA was carried out under the prime ministership of Vīra Samsera. Although completed, the final version only saw publication two years later, in 1888 (VS 1945). As stated in the preface to the Ain, the reason for this alteration was the belief that the previous 1870 MA was characterized by convoluted and obscure language, making it difficult to comprehend. Equally important, it was ambivalent in multiple instances. Many provisions of the earlier Ain, it averred, had not been stated clearly, and not only once, but repeatedly throughout the work, upending any claim to easy usability. It is these supposed drawbacks, which the MA of 1885 sought to correct, stating boldly on its very title page:

When the earlier Ain was being formed it became rather prolix, [many] of its provisions having been unnecessarily iterated twice [or even] three times, resulting in disparities in the applicability of penal measures—two to three [incompatible] provisions could be applicable to the same case. [Therefore,] Prime Minister Deva Samsera had [this] Ain produced which, being to the point, covers all the matters [as in the previous Ain] but so that one provision does not contradict another.

The amended version was divided into five simplified chapters, with briefer Articles and a more compelling underlying structure. Material departures from the 1854 version remain minimal, at least with regard to the section on homicide. In other instances, emendations testify to

322 See MA 1870 p. 1 § 1.
323 He attended his office from 5 March 1901 to 27 June 1901.
324 For example, the section 34 of the Article ‘Regarding the Throne’ is also placed as the section 61 of the Article ‘On Land’ (see MA-ED1/1 § 34 and 5 § 61).
325 aghi āina bandā sāhrat lambayamāna bhai ra dobharā tebhārā smeta parī sajāya smeta namīlyāko yakai muddā sajā<..>nāmā 2 3 mahala lāngnā hunāle śrī 3 mahārāja birasamsersa jaṅga rānā bāhādūra […] bāṭa choṭakarī tavarasaga sabāikurā pugnyā yekā mahalkā māmalā dośrā mahalko āina nalāṅg-nyā garī banāibaksyāko āin. (MA 1888/Cover page, in NGMPP E 1214/3).
the growing experience acquired in legal practice within the contemporary political culture. The notion of divine kingship is a case in point. As we have seen above, the MA of 1854 rhetorically provides the king an important role as a Hindu king within the given legal framework by defining the county as the only remaining Hindu kingdom in the Kali era, thereby signalling the purity and uniqueness of its polity. By contrast, the MA of 1885/1888 redefines the country as the “meritorious land which has Paśupati's [Jyotir]liṅga and the venerable Guhyeśvaraṇīpīṭha.” Poignantly, the king no longer enjoys any religiously or culturally derived legal privileges. At the same time, the prime minister's position as delineated in the 1870 MA 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. The following section demonstrates this well:

Do not set [a person] free if ordered by anyone other than the prime minister. If the commander-in-chief orders [somebody] to be set free, [the concerned authority] should provide him with information of [what led to] the imprisonment. If the commander-in-chief does not agree [to withdraw the request,] even after being so informed, the prime minister shall be informed. Even in the case where a pramāṅgī of the prime minister has been received, [the concerned authority] should take the [ordered] action only after informing [the prime minister of the said details].

A further significant change is the restriction placed on widow burning (satī polnu), part of the amended provisions of the 1885/1888 MA. Although a theoretical restriction was introduced in the MA of 1854—itself an initial step towards the full abolition of widow burning—the amended MA of 1885/1888 places stronger (i.e., more proactive) restrictions on widow burning by instructing local officials to actively dissuade widows from committing self-immolation. If their exhortations fall upon deaf ears, these officials are now bound to inform

326 [...] śrī pasupati liṅga guhyeśvaraṇīpīṭha bhayāko yasto punyabhūmi [...]. (MA 1888/3/22 §1, in NGMPP E 1214/3).
327 prāim mīniṣṭara bāheka arule choḍideu bhanyā na choḍanu. kamyāṇḍara ṭina cīphale choḍideu bhanyā yo yahorāmāsa ya thuniyāko ho bhani jāhera garnu. jāhera gardā pani namānya prāim mīniṣṭarasamā jāhera garnu. prāim mīniṣṭaraṇko pramāṅgi āyā pani jāhera gari mātra garnu. (MA 1888 p. 5 §13, in NGMPP E 1214/3).
the local court or, where there was no major court in the area, any estate office. A widow is allowed to be burnt only if a decision to that effect is made by the court or office.  

The amended version of 1935

In 1935, a new version of the MA was prepared during the prime ministership of Juddha Samsera Rāṇā. This edition was in effect until the end of the Rāṇā regime (1950). One of the major changes of this edition was the abolition of slavery. Compared to the latter two preceding editions of the MA, this edition contained more practical court procedures to shield the court from undue influence by outside authorities and to otherwise reinforce the autonomy of the judiciary. The role of the king was further restricted by empowering the prime minister to take on the role of a court of appeals. The Bintīpatraniksārī Aḍḍā, a department directly under the prime minister, was given authority to evaluate petitions submitted to the prime minister. On the other hand, the prime minister was not given any power to overturn court decisions:

If a pramāṅgī is issued [directing judges] to [settle] a case by taking a view that accords with an order from the prime minister or a marjī from the commander-in-chief, then if one can, on the basis of the Ain and savālas, act in accordance with the pramāṅgī, [the judges] shall accept [it] and so act on the basis of the Ain and savālas. If one cannot so act in accordance with the pramāṅgī, [the judges] shall not accept such a pramāṅgī. [It] shall be sent back [to the issuer]. If such a pramāṅgī is returned, the Bintīpatraniksārī Aḍḍā shall inform [the prime minister or

329 See MA 1888/4/17 § 1, in NGMPP E 1214/3.
330 Juddha Samsera held office from 1 September 1932 to 29 November 1945.
331 See Höfer 2004: 1. For a detailed discussion on the topic, see Bajracharya (2022).
334 For example, the following section explicitly forbids anyone other than the prime minister to issue pramāṅgī: prāim miniṣṭara bāheka aru kasaile panī enamā virodha parna nyāya anvāya hune pramāṅgī dina ra addāle panī so bamojīma garna humdaina. gareko bhae panī badara huncha. “No one other than the prime minister shall issue a pramāṅgī which goes against provisions in the Ain or which turns justice into injustice. Nor shall the Aḍḍā take any action in accordance with such a pramāṅgī. If any action is taken, it is invalid.” (MA 1935 p. 142, in NGMPP E 1415/3).
1.6 The Various Ains: An Overview

commander-in-chief] and send it [back] to the [judges] [only]
after the criteria of the Ain and savālas are met.\textsuperscript{335}

The prime minister, then, was entitled to order the courts to reinvesti-
gate and re-evaluate cases in instances where petitions yielded substan-
tial evidence of error.

The MA of 1963, a proud project of King Mahendra's, 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. As pointed out by S. Kumar,\textsuperscript{336} the pre-Mahendra
MAs did not constitute the entirety of the law. Therefore, after the
promulgation of the MAs, various other legal documents such as
khadganisānas,\textsuperscript{337} sanadas, savālas and rukkās were issued by the king,
prime minister and other officials. Given the enormous number of sup-
plementary laws, it was difficult for court officials to master the intri-
cacies of particular aspects of the law. Therefore, fifteen years after the
downfall of the Rāṇā regime, Mahendra formed a law commission to
draft a new MA, which he then decreed. It was again divided into five
parts and contained procedural, and civil and criminal laws. The major
revolutionary concept of this MA was the abolition of the caste sys-
tem, resulting in a new age of social development. Further, it regulated
child marriage, provided property rights for women to an extent and
also abolished polygamy. However, regardless of the abolition of caste
system, the new MA held firm to the concept of a confessional Hindu
state, as envisioned from the first MA of 1854 on.\textsuperscript{338}

To sum up, the basic norms of the legal system as introduced by
Jaṅga Bahādura Rāṇā in the MA of 1854 remained in place until the
end of Rāṇā regime. The legitimacy in the 1854 MA, based on a shared
collective identity grounded in strong moral-affective ties between the
state domain and subjects, subsequently became the reference point for
all further development of the succeeding Ains. Therefore, as A. Höfer

\textsuperscript{335} prāim ministarakā hukuma mutābika ra mukhatyārakā marjī mutābika herneko
pramāṅgī bhat āemā aina savālale so pramāṅgī bamojima garna hune rahecha
bhane bujhī lit aina savālako rīta puryāī so bamojima garnū. aina savālale
so pramāṅgī bamojima garna nahune rahecha bhane testo pramāṅgī bujhi-
linu pardaina; phirtā garī pathāi dinū; testo phirtā āemā bintipatra niksārī
addābāta doharyāī jāhera garī aina savālako rīta puryāī pathāi dinū. (MA
1935 p. 146–147, in NGMPP E 1415/3)

\textsuperscript{336} See Kumar 1964: 62–63.

\textsuperscript{337} Khadganisānas were executive orders issued by the Rāṇā prime minister, typ-
ically bearing a seal with the image of a sword (khaḍga nisānā).

\textsuperscript{338} See MA-1963.
Table 1: A list of the major amendments to the MA after 1963

<table>
<thead>
<tr>
<th>Amendment and Supplement</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>1964 (VS 2021)</td>
</tr>
<tr>
<td>Contract Law (karāra ain)</td>
<td>1966 (VS 2023)</td>
</tr>
<tr>
<td>Second</td>
<td>1967 (VS 2024)</td>
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<tr>
<td>Third</td>
<td>1968 (VS 2025)</td>
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<tr>
<td>Fourth</td>
<td>1970 (VS 2027)</td>
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<tr>
<td>Fifth</td>
<td>1974 (VS 2031)</td>
</tr>
<tr>
<td>Evidentiary Law (pramāṇa ain)</td>
<td>1974 (VS 2031)</td>
</tr>
<tr>
<td>Sixth</td>
<td>1976 (VS 2033)</td>
</tr>
<tr>
<td>Seventh</td>
<td>1978 (VS 2034)</td>
</tr>
<tr>
<td>Eighth</td>
<td>1985 (VS 2042)</td>
</tr>
<tr>
<td>Ninth</td>
<td>1986 (VS 2043)</td>
</tr>
<tr>
<td>Law Repealing Some Nepalese Statutes (kehī nepāla kānūna khāreja garne ain)</td>
<td>1990 (VS 2047)</td>
</tr>
<tr>
<td>Law Amending Some Procedural Nepalese Laws (kārabāhīsambandhī kehī nepāla ain saṃśodhana ain)</td>
<td>1990 (VS 2047)</td>
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<tr>
<td>Law Amending Some Nepalese Laws (kehī nepāla ain saṃśodhana garne ain)</td>
<td>1992 (VS 2049)</td>
</tr>
<tr>
<td>Law Relating to Children (bālabālikāsambandhī ain)</td>
<td>1992 (VS 2049)</td>
</tr>
<tr>
<td>Tenth</td>
<td>1993 (VS 2050)</td>
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<tr>
<td>Law Amending Some Nepalese Laws (kehī nepāla ain saṃśodhana garne ain)</td>
<td>1999 (VS 2055)</td>
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<tr>
<td>Law Amending Slaughterhouse and Meat Inspection [Regulations] (paśuvadhāśālā tathā māsu partkṣaṇa saṃśodhana garne ain)</td>
<td>1999 (VS 2055)</td>
</tr>
<tr>
<td>Law Amending Some Nepalese Laws Relating to Punishment (danda sajāyasambandhī kehī nepāla ain saṃśodhana garne ain)</td>
<td>1999 (VS 2056)</td>
</tr>
<tr>
<td>Contract Law (karāra ain)</td>
<td>2000 (VS 2057)</td>
</tr>
<tr>
<td>Some Nepalese Laws Relating to Court Procedures and the Administering of Justice (adālata vyavasthāpana tathā nyāya praśāsanasambandhī kehī nepāla ain)</td>
<td>2002 (VS 2059)</td>
</tr>
</tbody>
</table>
rightly understood, the MA of 1854 cannot be taken as having strengthened the dictatorial power of the Rāṇā regime. On the contrary, it institutionalized a new political culture under Jaṅga Bahādura Rāṇā, who was provided with well-defined executive powers to the detriment of other domestic institutions, first and foremost the monarchy.

The major amendments of the MA after 1963 are listed in Table 1.

### Table 1 (continued)

<table>
<thead>
<tr>
<th>Amendment and Supplement</th>
<th>Date</th>
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<tbody>
<tr>
<td><strong>Eleventh</strong></td>
<td></td>
</tr>
<tr>
<td>Law Amending Some Nepalese Laws (kehī nepāla kānīna samśodhana garne ain)</td>
<td>2002 (VS 2059)</td>
</tr>
<tr>
<td>Law Amending Some Nepalese Laws in order to Establish Gender Equality (samānatā kāyama garna kehī nepāla ain samśodhana garne ain)</td>
<td>2006 (VS 2063)</td>
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<tr>
<td><strong>Twelfth</strong></td>
<td></td>
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<tr>
<td>Law to Strengthen the Republic and to Amend Some Nepal Statutes (ganatantra sudhrdhikaraṇa tathā kehī nepāla kānīna samśodhana garne ain)</td>
<td>2007 (VS 2064)</td>
</tr>
<tr>
<td>Law to Amend Some Nepalese Laws in order to Establish Gender Equality and End Gender Violence (laiṅgika samānatā kāyama garna tathā laiṅgika hiṃsā antya garna kehī nepāla ainlāi samśodhana garne ain)</td>
<td>2015 (VS 2072)</td>
</tr>
<tr>
<td>Law Amending Some Nepalese Laws (kehī nepāla ain samśodhana garne ain)</td>
<td>2016 (VS 2072)</td>
</tr>
</tbody>
</table>

The concepts of purity (śuddha) and pollution (aśuddha) are key structural elements of everyday life in pre-modern Nepalese society. Religious values and moral conduct are defined in terms of them. Impurity comes about either because of impure acts as defined by custom, or because of birth—by being born into a lower caste. For example,

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340 The table is based on the seventh (MA-ED-7A), ninth (MA-ED-9A) and tenth (MA-ED-10A) editions of the MA. Compare the table given in the translation of the MA-1963 prepared by the Nepal Law Commission.
drinking liquor is considered as an impure act for Sacred Thread-wearing caste groups in the MA. The following section demonstrates this:

If anyone belonging to a Sacred Thread-wearing caste group drinks liquor which he has either made at home, brought from somewhere else or gone somewhere else [to consume,] and if he also contaminates fellow caste members [by eating] cooked rice [together with them], his share of property shall be confiscated in accordance with the Ain, his Sacred Thread shall be removed and his caste status shall be degraded to the pure caste of Non-enslavable Alcohol-drinker. If he has not contaminated fellow caste members [by eating] cooked rice [together with them], his share of property shall not be confiscated; only his Sacred Thread shall be removed and his caste status shall be degraded into [that of a] Non-enslavable Alcohol-drinker.

Similarly, the MA categorizes Kāmīs, Sārkīs, Cunāras, Hurkyās, Podhīyās etc. as impure caste groups because of their low birth.

There has already been much discussion of the caste system (jāti/jāta). According to D. Quigley, the terms varṇa and jāti are indiscriminately translated as caste in various European sources. Since the terms varṇa and jāti are two different indigenous concepts in Hindu culture, the term ‘caste’ cannot stand for both. Quigley interprets jāti and varṇa as follows:

It is very clear, then, that varṇa and jāti are two different concepts, yet both have been translated as ‘caste.’ What exactly is the correspondence between them? Perhaps the most widespread

341 The MA strictly bases its regulation of drinking liquor on the shastric practice. The śāstras explicitly forbid the twice-born from drinking liquor. For example, the ĀpDhŚ (1.25.3) states surāpo ‘gnisparśīṃ surāṃ pibet. “A man who has drunk liquor should [be made to] drink burning hot liquor.” Similarly, the GDhŚ (231.2) and VDhŚ (2019.22) explicitly state that no penance can purify a twice-born who has drunk liquor; death is the only mean of his purification.

342 tāgādhāri jāta gaihra kasaile āphule gharamā banāi havas antavāta lyāi havas anta gai havas jāni jāni jāda raks tāī āphnā bhatāhālāi smet bhātānā borecha bhātānā ain bamojimko anśa sarvasva gari janaṇ jhikī namāsinyā matavālī śuddha jātamā milāidinu. bhatāhālāi bhātānā boryāko rahenacha bhānā sarvasva hudaina. janaṇ mātra jhikī namāsinyā matavālī jātamā milāi chodidinu. (MA-ED2/87 §12).

343 See MA-ED2/160 §17.

344 See, for example, Dumont 1980, Quigley 1993, Bayly 1999; and Michaels 2005a and 2005b.

opinion is that *varṇa* is simply a theoretical category never actually encountered on the ground while *jāti* is the ‘real’ operation unit, the real caste. [As] … many Hindus themselves profess, the world is actually made up of units called *jāti* any one of which can, in theory, be slotted into one of the more embracing *varṇa* categories, or into the residual category of Untouchables.\(^{346}\)

However, the MA—in contradiction to the common understanding—uses the term *jāta* to refer to both, caste class (*varṇa*) and caste group (*jāti*).\(^{347}\) For example, Upādhyāya Brahmins, Jaisī Brahmins, and Rājapūtas are referred to as *brāhmaṇa jāta*,\(^{348}\) *jaisī jāta*,\(^{350}\) and *rājapūta jāta*\(^{351}\) respectively. Such uses of the term *jāta* seem to follow the Hindu *varṇa*-system. However, the MA also terms the Mecyās, a Terai indigenous ethnic group, the Mecyā *jāta*, and Muslims the *musalmān jāta*, thus applying the term *jāta* to tribes and religious groups respectively. The following passage demonstrates this:

[The following decision was made on] Saturday, the first day of the bright fortnight of Pauṣa in the year [VS] 1917: It became apparent that the people of Mugalāna do not accept water [touched by] the Mecyā 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 Mecyā caste. While [discussing the question] in the Kausala of the *bhāradāras* whether water can be accepted from the members of Mecyā caste or not from now [on], the Kausala of the *bhāradāras* decided the following: Water shall be accepted from Mecyā for the [following] reasons: [a] water from Newar, Magara, Guruṅg, 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 Mecyā 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

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346 Quigley 1993: 5.
347 See, for example, Marriot & Inden 1985: 349.
348 See Höfer 2004: 85–87 for a detailed description regarding the interpretation of the term *jāta* in the context of the MA.
349 See MA-ED2/113 §1.
350 See MA-ED2/115 §3.
351 See MA-ED2/114 §1.
they are the caste whose path is Shaivism. From today onwards, whoever [belonging] to the Parvatīya Thāru caste does not accept water from Mecyā caste shall be fined 5 rupees. If the fine is not paid, he shall, in accordance with the Ain, be imprisoned.\footnote{samvat 1917 sāla pauṣa sudi 1 roja 7 mā bhayāko gorṣā bharamuluka madhye sa jillā morammā rahanyā mechyā jātale bhaiṣi sugura kuṣurā sānyā hunāle mogālāniyāharāle pāni sādā rahyānachan ra hāmrā mulukmā pāni mecyā jātako pāni sādā rahyānachan abe i mecyā jātako pāni calana sakcha ki sakdāina bhai bhāradāri kausala hudā hāmrā mulukmā bhaiṣi sugura kuṣurā gaī hātiko māsu sānyā nevāra maγara gurā bhotyā lāpacyākā hātako pāni hāmrā mulukmā calyāko cha i mecyā jātako tā aghi pāni calyāko ruhecha inako chorāchori kamāri kamāri bhai darbārasamma pāni aghi puγyākā rahyāchān inahārūte pāni nacalanyā achuti jātako hātako ra musalamān jātako hātako pāni pāni sādā rahyānachan deutā siva māndā rahyāchān inahārū siva mārgi rahyāchān bhanyā inkā hātako pāni calcha bhāmnyā bhāradāri kausala la ḍhaharāudā āja deṣi jo mecyā jātako pāni sādā inahārū teslāī 5 rupeya daṃḍa garnu. rupeya natiryā aina bamojima kaida garnu. (MA-ED 2/89 §49).}

The socio-cultural and caste classifications of the people of Nepal in the 1854 MA are highly complex, reflecting the multitude of intermixed ethno-caste groups and diverse individual cultures.\footnote{See Höfer 2004: 6.} Since the caste system of Śāha and Rāṇā Nepal does not seem to follow the Brahmanical varṇa-system of dharmashastric practices, it is hard to reach a conclusion regarding the conceptual roots behind the caste system of nineteenth-century Nepal. In distinction to the Brahmanical orthodox varṇa-system laid down in dharmashastric texts, the features of the MA’s caste system are based in part on dharmashastric ideas but more so on customary practices. For example, as mentioned above, the Mecyā caste was considered as Water-unacceptable (but probably Touchable) caste group in the MA of 1854. However, their caste status was upgraded as Water-acceptable in 1860.\footnote{See MA-ED 2/89 §49.} This indicates that Nepal’s caste system was not always bound to Brahmanical orthodox thought. The above example shows that impurity was not a question of personal likes or dislikes but depended on social status, which was deeply rooted in customary practice. Neither any particular śāstra nor the state could interfere in the matter. The state was forced by circumstances to decide upon the purity status of the Mecyā community on the basis of established customary norms. This indicates that while the state played the role of lawgiver, it had no inclination to break with existing social practice irrespective of what the śāstras teach. The caste history of Nepal shows, rather, some flexibility when it comes to redefining the caste
status of certain categories of people. For example, the Magara caste group was upgraded to Non-enslavable Alcohol-drinkers in a lālamohara issued in 1822. It reads as follows (see Figure 1):

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 (an epithet of Kṛṣṇa) etc., high in honour, the venerable supreme king of great kings, the thrice venerable great king, Rājendra Vikrama Bahādura Samsera Jaṅgadeva, the brave swordsman, the divine king always triumphant in war.

[Regarding the following]: To the Magaras throughout the Kingdom, east of the [river] Bherī and west of the [river] Mecī. It has come to our attention that ---1--- (i.e., venerable father of Rājendra) exempted you (i.e., Magaras) from the aputāli and

Aputāli is an adjective that denotes being ‘childless’, particularly in the context of a deceased man who has not left behind any male offspring. It refers to property that lacks a son as the rightful heir, thus becoming escheatable property or property that reverts to the state in the absence of a legitimate heir.
cākacakui\textsuperscript{356} [taxes]. Today we have exempted you also from the pharnyāulo\textsuperscript{357}, bāksyo and gvāsyo [taxes]. Additionally, we have made [the following] regulation and [let it be written in] a copperplate: Regarding the crime of committing adultery, [Magaras] shall be punished with a fine but shall not be enslaved [anymore]. Tuesday, the 8\textsuperscript{th} of Āśvina, in [Vikrama era] year 1879. May there be auspiciousness.\textsuperscript{358}

The following subsection presents a brief overview of the caste system as laid out in the MA and prior to it.

1.7.1 History of the Caste System

An initial attempt to standardise and homogenise the caste hierarchy in Nepal was undertaken after the conquest of Kathmandu Valley by Pṛthvī Nārāyaṇa Śāha in 1769. According to B. Acharya, the king did not try to completely infuse Gorkhālī social and cultural practices into the Newar culture, nor did he entirely accept the previously existing Newar social and cultural practices of the Malla kingdoms.\textsuperscript{359} He aimed at a fusion of the pre-existing social and religious culture of Kathmandu Valley and the newly introduced Gorkhālī culture, in an effort to create a culturally more coherent kingdom. For example, a certain Machindra and his family of Dhalāche Ṭola in the city of Patan were punished with enslavement after Kathmandu was conquered by Pṛthvī Nārāyaṇa Śāha, and this resulted in their caste degradation. However, Girvāṇayuddha Śāha issued a lālamohara and emancipated Machindra and his family

\textsuperscript{356} Cāka-cakui is often translated as ‘adultery’ or ‘fine for adultery’. At times, it is also associated with the term ‘incest.’ Additionally, cākacakui refers to forms of marriage between different ethnic groups that do not align with the Hindu ideal of marriage, as described by Stiller (1976: 174). The term cāka pertains to a low-caste man who is punished by enslavement for a sexual offense, while cakuī represents a low-caste woman who is similarly punished for a sexual offense (MA-ED 2.86).

\textsuperscript{357} Incestuous sexual relations.

\textsuperscript{358} svasti śrīgirirājacakracūḍāmaṇinarāyaneyaśdīvividhavirūdāvāla-virā-
jamānaṇamāmayamahādhirājajāśāśrīśrīmahārāja-rajendravikra-
masāhavahādurasanserjāngadevānām sadā samaravijayānām --- āge bheri
pūrva meci paścima bharamulūkā magaraharūke. ---[1]---vāṭa aputāli
ōča cāka cakui māpha garivaksanu bhayāko rahecha. āja hāmīvāta pharnyāulo
vākṣyo gvāsyo samet māpha gari au virāmāphik khatamā daṃḍa sāsanā
garnu jīya namāsanu bhani thiī vādhi tāvāpatra garivakyaūt iti samvat 1879
śāla dvitīya āśvina vadi 8 roja 3 śubham ---. (NGMPP DNA 14/28).

\textsuperscript{359} See B. Acharya 1963.
from slavery in 1801, thereby reversing the prior order and readmitting them into their former caste. The lālamohara reads (see Figure 2):

[Fol. 1r] 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 (an epithet of Kṛṣṇa) etc., high in honour, the venerable supreme king of great kings, the thrice venerable great king, Gīrvāṇayuddha Vikrama Śāha, the brave swordsman, the divine king always triumphant in war.

[Regarding] the following: To Machindra of Dhalāche Ṭola in the city of Patan. Earlier, when Nepāla (the Kathmandu Valley) was conquered, your community was uprooted and made slaves. Today, I have freed you and your sons and daughters by removing
the title of your status as slaves. Mindful of proper conduct (khāti-rajāmā), perform together with your fellow caste brothers the acts of dharma that have been passed down within the tradition of your clan and arrange marriages for your sons and daughters.

Wednesday, the 12th of the dark fortnight of Caitra in the [Vikrama era] year 1858. [May there be] auspiciousness.

[Fol. 1v] Attested by Bam Śāha, witnessed by Bakhatavāra Siṃha, attested by Sera Bahādura [and] attested by Narasiṃha.

There is no extensive historical evidence for an elaborate caste system in the Kathmandu Valley before the time of Jaya Sthiti Malla. However, there has been some speculation about its existence on the basis of a few Licchavi inscriptions. For example, N. R. Panta, quoting the Mānadeva and Vasantadeva inscriptions at Cāgu and the inscription in Thānakot among others, argues that the caste system had been already established in the Valley by the sixth century. Since the quoted inscriptions merely refer to Brahmins, rituals, ritual gifts given to Brahmins and similar topics, the evidence is not sufficient in order to be able to sketch out a complete picture of Brahmanical caste system in the Licchavi period. Still, with their references to Brahmins, such inscriptions provide some minor indications that aspects of the Brahmanical varṇa-system were influencing socio-political practices of that time.

A more comprehensive expression of the varṇa-system can be found in the NyāV sponsored by Jaya Sthiti Malla. For example, in defining the relation between Brahmins and the king, the NyāV puts the former at the top of the caste hierarchy: ‘[A seat] for Brahmins is mandatory [to be installed] in front of the seat of king. [The King] shall see all the Brahmins early in the morning and greet [them].’ Similarly, the following quote from NyāV draws a clear picture of the caste hierarchy imagined along the lines of the Brahmanical varṇa-system in the Malla kingdom:


For example, N. R. Panta (1964: 4) quotes: viprebbho ’pi ca sarvavā āda pradañcā tatyatā pradañcā dhanam [...]. “[Queen Rājyavatī remained like Arundhatī] in that she always gave wealth to Brahmins in order to increase his (i.e., King Dharmadeva’s) merit [...].”

bra(!)manasyāparīhāro rājanyāsanam agrataḥ, prathamaṃ darśanaṃ prātaḥ sarve bhayaś cāpi vādānam(!). (NyāV, p. 263, see parallel in NārSm 18.33). “A [sign of] the respect (lit. ‘lack of disrespect’ aparīhāra) for Brahmins within a king is their seat in front [of him].”
A Kṣatriya who assails a Brahmin with harsh language shall incur a fine of one hundred [paṇas]. If [such an offence is committed by a Vaiśya], he shall be fined one hundred fifty [to] two hundred [paṇas], while [if it is committed by] a Śūdra, he shall undergo corporal punishment.\(^363\)

The chronicles, for example the *Bhāṣāvaṃśāvalī* (BhV) and *Nepālīk-abhūpavamśāvalī* (NBhV), are other major sources with detailed accounts of the caste reformation and other regulations introduced by Jaya Sthiti Malla. References to Jaya Sthiti Malla’s legal reforms can be seen also in the DivU of Prthvī Nārāyaṇa Śāha\(^364\) and in the MA.\(^365\) Thus, the NBhV narrates:

He (i.e., Jaya Sthiti Malla) made various laws in Nepāla, such as the following: one should not take the occupation specified for the caste other than those which have been assigned to one’s own caste; people of low caste should live using specified kinds of dresses, ornaments, and houses; Kasāī should wear sleeveless labedā; Poḍhyā should not wear caps, labedā, shoes, and golden ornaments; Kasāī, Poḍhyā and Kulu should not tile their roofs; and everybody should obey people of higher caste than their own.\(^366\)

Similarly, the BhV gives a detailed narration of Jaya Sthiti Malla’s caste reformation. According to this text, a total of 725 castes were defined,\(^367\) with certain professions being assigned to them in accordance with their caste status.\(^368\) Similarly, the text *Jātimālā* (JM), attributed to Jaya

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\(^{363}\) *śatam brahmaṇam(!) ākruṣya kṣatriyo dandam arhati. vaiśyo dvyardha(!) śata(!) dve và śūdras tu vadham arhati.* (NyāV, p. 240; see for a parallel, NārSm 15/16.16–18). According to the ĀpDhS (2.27.14), the tongue of a Śūdra is to be chopped off if he hurls abusive words at a Brahmin with virtue.


\(^{365}\) The MA quotes Jaya Sthiti Malla’s regulations on land and house measurements twice. The following two sections demonstrate this: (i) “when demarcating the boundaries of city houses, measure […] in accordance with the [following regulations] previously made by King Jyasthti Malla” (saharkā gharako sādhasivānā gardā aghi rājā Jaya Sthiti mallale bāṃdeja gārī gāyā bamojima […] nāpī garu. MA-ED2/5 §38), (ii) “when measuring of land, khetas and pākhās in the hill regions, [do so] in accordance with [the following regulations] made by Jaya Sthiti Malla […],” pāhāḍakā jagā jamīna khet pākhāko nāpī gardā aghi rājā Jaya Sthiti mallale bāṃdeja gārī gāyābamojima […]” (MA-ED2/5 §40).

\(^{366}\) NBhV (vol. 2), p. 85–86.

\(^{367}\) See BhV, p. 9.

\(^{368}\) See BhV, p. 45–51.
Sthiti Malla himself, identifies 82 caste groups.\(^{369}\) Table 2 shows the caste division presented in the NBhV and BhV.

The above table shows that Jaya Sthiti Malla started the process of implementing a strong Brahmanical varṇa-system in the Kathmandu Valley, one in which all subjects are assigned places within a strict hierarchical caste order. Brahmins are assigned the task of calculating astrologically auspicious days for Brahmins and Kṣatriyas to perform birth rites and sacrifices. Soldiers are supposed to bow down to the feet of Brahmins. Poḍhyās and Kasāīs, who are categorized as Untouchable caste groups in the MA, are not allowed even to wear caps, labedās, shoes or golden ornaments, or to tile their roofs, and are enjoined to pay open respect to members of the upper castes. Such examples indicate that the Brahmanical varṇa-system was systematically adopted during Jaya Sthiti Malla’s regime. The following passage from the BhV illustrates just how strict it was:

If a Kṣatriya commits adultery with a Brahmin woman who still has a husband, he shall be taken across the river and killed with one stroke by the hand of a cāṇḍāla. If a Kṣatriya commits adultery with a Brahmin widow, he shall be punished by chopping off his genitals and fined 30 rupees. If he wants readmission into his caste, [he shall undertake] prājāpatya\(^{370}\) and cāndrāyaṇa\(^{371}\) vows. If a Vaiśya commits adultery with a Brahmin woman who still has a husband, his genitals shall be chopped off and fined 120 rupees. No cāndrāyaṇa vow shall be undertaken by either

\(^{369}\) The colophon of the text reads: jayasthitimallabhūpālena dharmaśāstrebhya uddhṛtāḥ. iti śrī nepālīyajātīyamālā samāptā bhūyāt śubham. “The glorious [text] Nepālīyajātīyamālā, which was extracted from the dharmaśāstras by Jaya Sthiti Malla, protector of the earth, ends [here].” (See JM, p. 7–8 and Frese 2000: 258–260).

\(^{370}\) As per the MDh (11.212), an individual (twice-born ‘dvija’) who observes the prājāpatya penance should follow a specific eating regimen. This involves eating in the morning for three days and in the evening for three days, consuming only what is received without asking for three days, and finally abstaining from food entirely during the last three days of the penance (try ahaṃ prātas try ahaṃ sāyaṃ try aham adyād ayācitam, try ahaṃ paraṃ ca nāṣnīyāt prājāpatyaṃ caran dvijah).

\(^{371}\) The cāndrāyaṇa penance, as described in the MDh (11.217), entails a specific practice related to food consumption and bathing. During the dark fortnight, one rice-ball is to be deducted from the daily food intake each day, gradually decreasing the quantity. Conversely, during the bright fortnight, one rice-ball is to be added to the daily food intake each day, gradually increasing the quantity. Additionally, the individual performing the penance is required to take three baths each day (ekaikaṃ hrāsayet piṇḍaṃ kṛṣṇe śukle ca vardhayet, upa-sprśanstriṣaṇaṇam etac cāndrāyaṇaṃ smṛtam).
Table 2: A list of caste groups mentioned in the different sections of the NBhV and BhV

<table>
<thead>
<tr>
<th>Caste group</th>
<th>Profession according to the NBhV and BhV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kasāī</td>
<td>should wear bāhākatyā dress, should play music instruments during others’ funerary rites and slaughter buffaloes. Priest: nāigubhāla.</td>
</tr>
<tr>
<td>Nari</td>
<td>should make wall paintings. Priest: gubhāla.</td>
</tr>
<tr>
<td>Sabala</td>
<td>should cultivate their landlord’s land. Priest: gubhāla.</td>
</tr>
<tr>
<td>Podhyā</td>
<td>should not wear a cap, labedā, shoes or golden ornaments.</td>
</tr>
<tr>
<td>Kasāī, Podhyā and Carmakāra</td>
<td>should not tile their roofs and should respect upper castes.</td>
</tr>
<tr>
<td>Daivajña and Jośī</td>
<td>should investigate astrological matters and provide astrological counsel for Vaiśyas and Śūdras.</td>
</tr>
<tr>
<td>Brāhmaṇa</td>
<td>should calculate astrologically auspicious days for Brahmans and Kṣatriyas to perform birth rites and sacrifices.</td>
</tr>
<tr>
<td>Takṣakāra/Pichu</td>
<td>should take measurements relating to houses.</td>
</tr>
<tr>
<td>Citrakāra</td>
<td>should paint pictures.</td>
</tr>
<tr>
<td>Mahābrāhmaṇa Bhāṭa</td>
<td>should dye blankets (pākhi) and loincloths (paṭukā) etc. Priest: gubhāla.</td>
</tr>
<tr>
<td>Sālmī</td>
<td>should press oil. Priest: gubhāla.</td>
</tr>
<tr>
<td>Chipā</td>
<td>should dye fabrics. Priest: gubhāla.</td>
</tr>
<tr>
<td>Gatha and Mālī</td>
<td>should engage in the flower trade. Priest: gubhāla.</td>
</tr>
<tr>
<td>Khupala</td>
<td>should carry litters.</td>
</tr>
<tr>
<td>Jogī (ascetic)</td>
<td>should beg for alms.</td>
</tr>
<tr>
<td>Lohakarmi</td>
<td>should work iron. Priest: gubhāla.</td>
</tr>
<tr>
<td>Kumāla</td>
<td>should produce pots. Priest: gubhāla.</td>
</tr>
<tr>
<td>Nau</td>
<td>should shave the heads of all caste groups. Priest: gubhāla.</td>
</tr>
<tr>
<td>Bhaḍelā</td>
<td>should do cooking.</td>
</tr>
<tr>
<td>Kasāṭa</td>
<td>should work bronze.</td>
</tr>
<tr>
<td>Ţamoṭa/Tamoṭa</td>
<td>should work copper. Brahmins, Jaisīs or Ācāryas are their priests if they are Hindus; gubhālas, if Buddhists.</td>
</tr>
</tbody>
</table>
Table 2 (continued)

<table>
<thead>
<tr>
<th>Caste group</th>
<th>Profession according to the NBhV and BhV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mulmī / Śreṣṭha</td>
<td>should do trading. Brahmins, Jaisīs or Ācāryas are their priests if they are Hindus; gubhālas, if Buddhists.</td>
</tr>
<tr>
<td>Kisāni</td>
<td>should carry ritual materials and dispose of the offered oblations. Priest: gubhāla.</td>
</tr>
<tr>
<td>Bāḍā / Lukarmi</td>
<td>should work gold and silver. Priest: gubhāla.</td>
</tr>
<tr>
<td>Vajrācārya / Gubhāju</td>
<td>should worship the deities and perform sacrifices for the following caste groups: Citrakāra, Sālmī, Chipā, Bhāṭa, Gāṭha, Lohakarmi, Kumāla and Nāi; and should give mantra to Śreṣṭha, Jyāpu, Halavāi, Vārāhi, Sikarmi, Lohakarmi and Citrakāra, and to gubhālas. Priest: gubhāla.</td>
</tr>
<tr>
<td>Soldiers</td>
<td>should bow down to the feet of Brahmins to receive a blessing.</td>
</tr>
<tr>
<td>Saṃghaṭa</td>
<td>should wash clothes. Priest: gubhāla.</td>
</tr>
<tr>
<td>Doma</td>
<td>should play musical instruments and have their wives dance.</td>
</tr>
<tr>
<td>Kusle</td>
<td>should play musical instruments during marriage ceremonies. Priest: someone from their own caste group.</td>
</tr>
<tr>
<td>Pulupulu</td>
<td>should play instruments during cremations. Priest: gubhāla.</td>
</tr>
<tr>
<td>Nakarmi</td>
<td>should work iron. Priest: gubhāla.</td>
</tr>
<tr>
<td>Pichīnīko</td>
<td>should provide initial maternity care if a child is born on an auspicious day. Priest: gubhāla.</td>
</tr>
<tr>
<td>Sudhīyāni</td>
<td>should provide maternity care.</td>
</tr>
<tr>
<td>Mosāṭa</td>
<td>should pack meat at Kasāṭi shops. Priest: gubhāla.</td>
</tr>
<tr>
<td>Tepocā</td>
<td>should plant vegetables for sale. Priest: gubhāla.</td>
</tr>
<tr>
<td>Khusala</td>
<td>should play instruments during processions and provide help to Sālamis constructing procession chariots. Priest: gubhāla.</td>
</tr>
<tr>
<td>Gvāla</td>
<td>should raise cows and sell dairy products. Priest: Brahmin.</td>
</tr>
<tr>
<td>Udāsa</td>
<td>should trade in Lhasa. Priest: gubhāla.</td>
</tr>
<tr>
<td>Taṭi</td>
<td>should make Sacred Threads (janai). Priest: Brahmin.</td>
</tr>
</tbody>
</table>
If a Vaiśya commits adultery with a Brahmin widow, he shall be punished by chopping off his genital and fined 60 rupees. The Brahmin woman shall not undertake a cāndrāyaṇa vow, but if the Vaiśya wants readmission into his caste, he shall undertake prājāpatya and cāndrāyaṇa vows ten times. If a Śūdra commits adultery with a Brahmin woman who still has a husband, his genitals shall be chopped off and be fed [them,] and he shall be executed by the hand of a cāṇḍāla. No cāndrāyaṇa [shall be undertaken] by the Brahmin woman. If a Śūdra commits adultery with a Brahmin widow, his genitals shall be chopped off and he shall be executed by a cāṇḍāla. No cāndrāyaṇa [shall be undertaken] by the Brahmin woman.

Brahmins and Kṣatriyas from Gorkhā played a major role in creating the foundation of modern Nepal by supporting the territorial expansion of Pṛthvī Nārāyaṇa’s kingdom, and from then on never loosened their close political ties with the Śāha and Rāṇā dynasties. According to M. S. Slusser, people from present northern India migrated to Nepal at the end of twelfth century, after the Moghul invasion of northern India. Brahmins from Mithila came to the south of Kathmandu,...........

Table 2 (continued)

<table>
<thead>
<tr>
<th>Caste group</th>
<th>Profession according to the NBhV and BhV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vaidya</td>
<td>should offer medical treatment. Priest: Brahmin.</td>
</tr>
<tr>
<td>Badhai</td>
<td>should make incense etc. Priest: Brahmin (if they are Śaivas); gubhāla (if they are Buddhists).</td>
</tr>
<tr>
<td>Halavāī</td>
<td>should make sweets. Priest: gubhāla.</td>
</tr>
</tbody>
</table>

[offender or victim]. If a Vaiśya commits adultery with a Brahmin widow, he shall be punished by chopping off his genital and fined 60 rupees. The Brahmin woman shall not [undertake] a cāndrāyaṇa vow, [but] if the Vaiśya wants readmission into his caste, he shall undertake prājāpatya and cāndrāyaṇa vows ten times. If a Śūdra commits adultery with a Brahmin woman who still has a husband, his genitals shall be chopped off and be fed [them,] and he shall be executed by the hand of a cāṇḍāla. No cāndrāyaṇa [shall be undertaken] by the Brahmin woman. If a Śūdra commits adultery with a Brahmin widow, his genitals shall be chopped off and he shall be executed by a cāṇḍāla. No cāndrāyaṇa [shall be undertaken] by the Brahmin woman.
while other groups including Brahmins migrated to the Western hill regions. Since these latter did not come in big numbers, they adopted the local pastoral culture of the Khasas, a group who were contemporaries of the Licchavis. B.R. Acharya argues that the Khasa culture was slowly influenced by the newcomers, which resulted in the spread of a mixed culture throughout the Gaṅḍakī and Kirāta regions. For example, a child born to a Khasa hill woman by a Brahmin is referred to as a Khatri, which could doubtless be assigned to the shastric category of varṇaśaṅkara. By the sixteenth century, the so-called Rājapūtas, a mixed military aristocracy, formed many petty kingdoms in the Western hill regions. Gorkhā, founded by Dravya Śāha in 1559, was one of these kingdoms. Although the Khasas adopted basic Hindu norms, they probably did not follow the strict rules required under the Brahmanical caste hierarchy of the Āryans of Indian plains. For all their deviations from Brahmanical orthodoxy, they were provided with a loose Hindu identity. A famous series of edicts issued by King Rāma Śāha provides evidence that the Brahmanical social structure was already caste-hierarchical and it was perceived as a model system at that time. For example, the fifteenth edict states: ‘If one kills a Brahmin, one is guilty of murdering a Brahmin (brahmahatyā); if [the offender] is not executed, the king incurs guilt.’ This is in line with the dharma shastric practice of exempting Brahmins from the death penalty.

1.7.2 The Caste Hierarchy in the MA

The caste system of Nepal is very complex, encompassing as it does the country’s vastly distinctive peoples and their individual cultures, religions and customary practices. The following account of it by Hodgson suffices to form a picture of this complexity during the pre-MA period:

 […] though both the Gürungs and Magars still maintain their own vernacular tongues, Tartar faces, and careless manners, yet, what with military service for several generations under

375 Translated in M.C. Regmi 1972: 93.
376 See Bista 1972: 3.
379 RŚEdict 15, tr. in Riccardi 1977: 53.
the predominant *Khas*, and what with the commerce of *Khas* males with their females, they have acquired the *Khas* language, though not to the oblivion of their own, and the *Khas* habits and sentiments, but with sundry reservations in favour with pristine liberty. As they have, however, with such grace as they could muster, submitted themselves to the ceremonial law of purity and to Brahman supremacy, they have been adopted as *Hindús*. But partly owing to the licenses above glanced at, and partly by reason of the necessity of distinctions of caste to Hinduism, they have been denied the thread, and constituted a doubtful order below it, and yet not *Vaisya* nor *Sudra*, but a something superior to both the latter—what I fancy it might puzzle the *Shastrí* s to explain on *Hindú* principles.\(^{381}\)

The aim of the MA, as stated in the preamble, was to bring uniformity to the regime of punishments as based on the severity of the crime and the offender's caste status (*khata jāta māphika*), irrespective of his official rank.\(^{382}\) However, the notion of *jāta māphika sajāya* ‘punishment according to caste status’ might seem to be at odds with the aim of bringing uniformity to penal law. As mentioned earlier, the caste status of an offender affects the degree of punishment to be imposed on him only if it relates to matters that concern impurity and pollution. Indeed, there are only a handful of exceptions in which an offender's caste status affects the type of punishment in crimes which are not related to matters of impurity. For example, Brahmins, women and certain groups of ascetics are not allowed to be sentenced to death in any lawsuit.\(^{383}\) The text of the MA shows no sign that the caste status of any individual plays any role in non-religious affairs. In seventy-five Articles in the MA—out of one hundred sixty-seven in total—dealing with non-religious state affairs, caste is at most of tangential relevance. The key principles of the caste system laid down in the MA concern the religious hierarchy but do not, that is, exert any notable influence on political and economic regulations. Thus, barring few exceptions, the MA does not concern itself with the caste status of an individual unless it has some connection with religious matters.

Broadly speaking, the MA introduces, as listed in the table below, the following four caste classes, which were meant to place major

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382 See MA-ED2/preamble.
383 See MA-ED2/1 §1, and also MA-ED2/64 §§1, 3–4 and 6.
social groups in Nepal and beyond within a comprehensive framework. For example, various Brahmins from the Indian sub-continent, Europeans, and Muslims all have their place in the caste structure of the MA. Table 3 shows the caste hierarchy as conceived in the MA. Except for Upādhyāya and Jaisī Brahmins within the first category, the internal hierarchy within Sacred Thread-wearers, Non-enslavable Alcohol-drinkers and Enslavable Alcohol-drinkers are not clearly distinguished in the MA. However, the MA goes into detail about the internal caste hierarchy of Touchable Water-unacceptable and Untouchable Water-unacceptable castes. The caste groups in the table are arranged according to hierarchical order in cases where their status is clearly defined.\footnote{384 See Sharma 1977b: 282 and Höfer 2004: 9.}

Except for a few cases, the \textit{Ain} does not provide explicit information regarding the association between specific caste groups (\textit{jāta}) and caste classes (\textit{varṇa}). This omission leads to various challenges. One such problem arises in the instance of the alcohol-drinking Kṣatriyas residing in the Western Himalayas. According to the \textit{Ain}, these individuals do not fit into any prescribed caste category. Since they consume alcohol, they are unable to maintain their caste status as Kṣatriyas who wear the Sacred Thread. However, in customary practice, they are still considered Kṣatriyas by birth, although the \textit{Ain} remains silent on this matter.

The MA often paraphrases the totality of the caste system as \textit{cāra varṇa chattisa jāta} (lit. Four \textit{V arṇas} and Thirty-six \textit{Jātas}). As stated by P.R. Sharma and A. Höfer, this expression was meant to symbolically address the totality of individual caste groups in the country.\footnote{385 See Sharma 1977b: 281 and Höfer 2004: 88.} The frequent occurrence of the terms \textit{varṇa}, Brāhmaṇa, Kṣatriya, Vaiśya and Śūdra in the MA gives the wrong impression that the Brahmanical \textit{varṇa}-system has been adopted in the MA. For example, neither the Water-unacceptable nor the Untouchable caste group is a feature of the Brahmanical \textit{varṇa}-system. Similarly, the MA treats ascetics as one caste group, whereas in the Brahmanical \textit{varṇa}-system they are conceived of as outside of the caste structure. Most ascetic sects refuse Vedic sacrifices.\footnote{386 See Olivelle 1995 and 2006 for a further discussion of asceticism.} In ancient India, asceticism represented renouncement of the early stages of Brahmanical orthodox life.\footnote{387 See Olivelle 2006: 70.} Since abandoning Vedic ritual activities and customary practices are key defining elements of asceticism, ascetics cannot fall under the Brahmanical caste structure, even though their monastic practices often mirror caste categories.
1.7 The Caste System in the MA — 89

Table 3: Symbolic order of the caste system. The table is sourced from Khatiwoda, Cubelic & Michaels (2021) on pages 31–33. On the basis of such categorical differentiations, the caste hierarchy of the Ain looks roughly as follows even though the position of some ethnic groups (* = Ethnic group) is not always clear.

1. Caste group of the ‘Sacred Thread-wearers’ (tāgādhārī)
   - Upādhyāya Brahmin
   - Devabhāju (Newar Brahmins)
   - Brahmins of foreign kingdoms: Terhaũte Brahmin, Bhaṭṭa Brahmin, Mar(a)haṭṭā-Brahmin, Nāgara Brahmin, Gujarātī Brahmin, Mahārāṣṭrīya Brahmin, Tailaṅgī Brahmin, Dravidian Brahmin, Brahmin of Madhesa
   - Asala Rājapūta, Rājapūta, Chetrī/Kṣatriya (‘warrior’)
   - High Newar castes such as Tharaghara, Asala Śreṣṭha
   - Hamāla
   - Bhāṭa/Bhāṭa Jaisī
   - Some ascetic sects (such as Jogī, Jaṅgama, Sannyāsī, Sevaḍā, Kanaphatṭā, Udāsī, Baghara, etc.)

2. Caste group of the ‘Non-enslavable Alcohol-drinkers’ (namāsinyā matuvālī)
   - *Guruṅga
   - *Magara
   - *Ghale
   - *Sunuvāra
   - *Limbu, Kirāti
   - *Newar castes from whose members water is acceptable

3. Caste group of the ‘Enslavable Alcohol-drinkers’ (māsinyā matvālī)
   - *Bhoṭe (ethnic groups who speak Tibeto-Burmese languages)
   - *Cepāṅa/Cepāṅga
   - Danuvāra
   - Häyu
   - Darai
   - *Kumāla
   - *Paharī
   - Ghartī (descendants of freed slaves) from hill regions, also called Pāre Ghartī
   - *Lāpacyā (Lepcha)
   - *Mājhī
   - *Thokryā
   - *Galahatyā
   - *Newar castes from whose members water is unacceptable
The caste regulations assiduously laid down in the MA are centred on the bodily purity or impurity of a person. The degree of purity possessed depends upon caste status. For example, Brahmins possess the highest degree of purity in comparison with the other three caste classes. The lower one's caste status, the less purity one possesses. However, one can lose one's purity either permanently or temporarily, mainly through different kinds of physical contact with low-caste persons or consuming tabooed food, and also through certain crimes. More than half the content of the MA deals with impurity and pollution, whether coming from impure food or various forms of contact (such as adultery, marriage, commensality etc.) with low-caste persons. As an example, I shall analyse the regulations from the Article ‘On Drinking Alcohol and Untouchability’ (*madapāna achutī*).\(^{388}\)

\(^{388}\) See MA-ED2/87.
Article 87: Regulations regarding drinking alcohol and untouchability

Basic categories

1. Castes

The Article on ‘Drinking Alcohol and Untouchability’ refers to offenders and victims only by their caste class but not, as in most Articles, by their individual caste group.\(^{389}\) The only exception is in the second section,\(^ {390}\) where Christians, Muslims, Kāmīs, Sārkīs, Damāīs are mentioned as individual castes and classified as Water-unacceptable and Untouchable caste groups.

2. Food items

Similarly, under normal circumstances, food is divided into two categories, edible (bhakṣya) and inedible (abhakṣya). What is edible object for lower caste groups may be inedible for upper groups. For instance, chicken is not edible for Sacred Thread-wearers but edible for Water-unacceptable groups and Untouchables. Several passages\(^ {391}\) deal with what can and cannot be accepted from the impure and lowest caste groups, namely, Water-unacceptable but Touchable and Water-unacceptable and Untouchable. Raw grain including rice, everything which has not been washed or mixed with water, raw fish, meat, tobacco for the hookah, perfume, spices, and fruits with a sweet scent, are classified as pure, although they have been touched or kept by impure caste groups. A clay vessel is not considered impure unless it is filled with water. Similarly, Chinese pots, bottles, drinking glasses and pots made out of wood are pure. Liquor, chicken meat, beef and buffalo meat are forbidden for Sacred Thread-wearers. An exception is he-goats, which are edible by Sacred Thread-wearers under 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. Some objects are acceptable even from Untouchable caste groups as long as the object has not come into contact with water.

\(^{389}\) See, for example, MA-ED2/61 and 62.
\(^{390}\) See MA-ED2/87 §2.
\(^{391}\) See MA-ED2/87 §§1–9.
3. Punishments
The following degrees of punishment are prescribed in this Article of
the MA for offences relating to drinking liquor and untouchability:
— A fine (to be paid to the government) including compensation
depending on the damage caused (bigo barābara jarivānā), an expi-
atory fine (patiyā) and a fine for purification §§ 1, 4, 6, 8–9, 13–14,
16–19 and 21–25
— Imprisonment (kaida garnu) §§ 4, 7, 8, 15–16, 18 and 20–21
— Penance together with the ritual of offering a cow to the
dharmādhikārin § 5
— The ritual of offering a cow to a Brahmin for purification (prāyaścitta
godāna) § 6
— Confiscation of property §§ 7, 12 and 15
— Enslavement (māsidinu) §§ 7 and 15
— Exile (deśa nikālā garnu) § 7
— An ordinary bath (nityasnāna) § 10
— Caste degradation (tallo jātamā milāunu) §§ 12 and 15–16
— Performing a purification ritual according to the tradition of one’s
own caste (jātako rīta garī śuddha) §§ 15–16
— Rice defilement (bhātabāheka) § 4

4. Offenders
Similarly, offenders are distinguished along the following lines:
— those who knowingly, deceitfully and forcibly commit a crime,
— those who deceive themselves into committing a crime,
— those who commit a crime while intoxicated,
— those who commit a crime by mistake or under outside compulsion
and
— those who commit a crime because of certain circumstances.

The degree of punishment is the highest for an offender of group (a)
and decreases in descending order for the lower groups. Table 4 pres-
ents examples which clarify the descending degrees of punishments.

Moreover, punishment for a violation of purity rules concerning
food decreases according to the receiver’s status. Table 5 shows that
the degrees of the punishment for offenders is wholly based on the
caste group of the victims (‘receivers’ in the table). As we see in the
table, the lower the victim’s caste group, the less the punishment for
the offender. Conversely, the punishment is higher, the higher the victim’s
caste group. However, it is clear from the above table that even the
lowest caste group is not outside the purity–pollution scale. For example, if a Brahmin knowingly, forcibly or deceitfully feeds taboo food to an Untouchable, he, too, is fined, which gives the lie to the notion that Untouchables are impure by birth and that external impurity cannot increase their impurity. Thus the hierarchical order presented in the MA seems to be a reflection of practised customs ‘as they have “come to be” among the various castes and which are now codified as such.’

Nepal has become a common ground shared by various historical ethnic and caste groups. In a survey conducted by the Central Bureau of Statistics (CBS), 60 caste groups were tabulated on the basis of the 1991 census. This number reached 100 and 125 respectively for the 2001 and 2011 censuses. For 2002, 81 cultural groups were tabulated. Similarly, the Dalita Āyoga listed 29 separate cultural groups among Untouchable castes. The complexity of Nepalese caste society raises the question as to how the MA went about establishing a hierarchy of castes within such a mixed social context. Barring a few individual enumerations of caste

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**Table 4: Degree of punishment according to the nature of crime**

<table>
<thead>
<tr>
<th>Group</th>
<th>Nature of the crime</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Deceitfully feeding cooked rice to a member of an upper caste §7</td>
<td>enslavement if an Enslavable, confiscation of property and exile if a Non-enslavable</td>
</tr>
<tr>
<td>b</td>
<td>Knowingly accepting liquor etc. or taboo food from a Non-enslavable Alcohol-drinker §5</td>
<td>caste degradation</td>
</tr>
<tr>
<td>c</td>
<td>Polluting objects belonging to a member of an upper caste while intoxicated §1</td>
<td>compensation depending on the damage caused and a fine of 5 rupees</td>
</tr>
<tr>
<td>d</td>
<td>Accepting taboo food from an Untouchable by mistake or under compulsion §19</td>
<td>purification by performing a ritual according to the tradition of one’s own caste</td>
</tr>
<tr>
<td>e</td>
<td>Entering into the house of an Untouchable to act as a midwife in case of emergency §10</td>
<td>an ordinary bath (no expiation is necessary)</td>
</tr>
</tbody>
</table>

---

groups in several Articles and sections, the MA seldom mentions such groups individually (see Table 2). This suggests that the aim of the MA was to create a broad legal framework that took account of the dominant Hindu caste customs of pre-modern Nepal without attempting to create a clear-cut status for all caste groups. One exception, however, is the internal hierarchy for the Untouchable caste groups drawn up on the basis of customary distinctions, as presented in Table 6.

See, for example, MA-ED2/145 §§8–12 and MA-ED2/147 §3.

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**Table 5: Degrees of punishment according to caste status for breaking food-offering rules**

<table>
<thead>
<tr>
<th>Offerer's caste group</th>
<th>Receiver's Caste group</th>
<th>Offering taboo food</th>
<th>Punishment to the offerer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sacred Thread-wearer and Non-enslavable Alcohol-drinker</td>
<td>Sacred Thread-wearer</td>
<td>knowingly, forcibly or deceitfully</td>
<td>confiscation of all property in accordance with the Ain and imprisonment for one year and enslavement (if Enslavable)</td>
</tr>
<tr>
<td>Sacred Thread-wearer and Non-enslavable Alcohol-drinker</td>
<td>Non-enslavable Alcohol-drinker</td>
<td>knowingly, forcibly or deceitfully</td>
<td>fine of 50 rupees and enslavement (if Enslavable)</td>
</tr>
<tr>
<td>Sacred Thread-wearer, Enslavable Alcohol-drinker or Non-enslavable Alcohol-drinker</td>
<td>Enslavable Alcohol-drinker</td>
<td>knowingly, forcibly or deceitfully</td>
<td>fine of 25 rupees</td>
</tr>
<tr>
<td>Sacred Thread-wearer, Non-enslavable Alcohol-drinker, Enslavable Alcohol-drinker or Untouchable</td>
<td>Water-unacceptable but Touchable</td>
<td>knowingly, forcibly or deceitfully</td>
<td>fine of 12 rupees</td>
</tr>
<tr>
<td>Sacred Thread-wearer, Non-enslavable Alcohol-drinker, Enslavable Alcohol-drinker, Water-unacceptable but Touchable or Untouchable</td>
<td>Untouchable</td>
<td>knowingly, forcibly or deceitfully</td>
<td>fine of 6 rupees</td>
</tr>
</tbody>
</table>
1.7 The Caste System in the MA

1.7.3 Were Caste Regulations a Strategy for Hinduization?

Scholars often theorize the caste regulations laid down in the MA as a strategy for establishing the supremacy of Hindu values and the reinforcement of Hindu norms. Since one of the major aims of the codification was to protect the autonomy of the country from British

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Table 6: Internal hierarchy among Untouchable castes

<table>
<thead>
<tr>
<th>Caste group and its hierarchical order</th>
<th>Customary reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Kasāi</td>
<td>they do not accept food from any other Untouchable castes, and high castes accept milk from them</td>
</tr>
<tr>
<td>2. Kusle</td>
<td>they do not accept food from a Cyāmyā, Podhya, Bādī, Gāinyā, Damāi, Kaḍārā, Sārki, Kāmi, Kulu or Hindu Dhobi, and they clean temple premises and the courtyards of high officials</td>
</tr>
<tr>
<td>3. Hindu Dhobi</td>
<td>they do not accept food from a Cyāmyā, Podhya, Bādī, Gāinyā, Damāi, Kaḍārā, Sārki, Kāmi or Kulu, and they do not wash laundry for Untouchable castes</td>
</tr>
<tr>
<td>4. Kulu</td>
<td>they do not accept food from a Cyāmyā, Poḍhya, Bādī, Gāinyā, Damāi, Kaḍārā, Sārki or Kāmi</td>
</tr>
<tr>
<td>5. Sārki and Kāmi</td>
<td>they do not accept food from a Kaḍārā</td>
</tr>
<tr>
<td>6. Kaḍārā (offspring from a Sārki man and Kāmyāni or vice versa)</td>
<td>they do not accept food from Damāis, but Damāis accept food from them</td>
</tr>
<tr>
<td>7. Damāi</td>
<td>they do not accept food from a Gāinyā and do not accept their offspring as fellow caste members if they are born to a Gāinyā woman</td>
</tr>
<tr>
<td>8. Gāinyā</td>
<td>they do not accept food from a Bādī</td>
</tr>
<tr>
<td>9. Bādī</td>
<td>they do not accept food from a Cyāmyā or Poḍhya</td>
</tr>
<tr>
<td>10. Poḍhya</td>
<td>they do not accept food from Poḍhya who consume others' leftovers</td>
</tr>
<tr>
<td>11. Clan of Cyāmyās</td>
<td>they accept leftovers from the high castes down to Poḍhya</td>
</tr>
</tbody>
</table>

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396 See for example, Sharma 1977b: 285 and 293; and Michaels 2005b: 8.
imperialism by creating an effective unified legal bond between the state and its diverse subjects, the MA declared that Nepal was the only Hindu kingdom in the Kali era. However, such a claim was political propaganda meant to rhetorically warn the British not to threaten the country’s autonomy. In order to convince oneself of this, a careful review of the structure of the Law Council (Ain Kausala) responsible for the formulation of the MA is required. That Council had 219 members and consisted of all the senior Rāṇās, royal noblemen (bhāradāra), royal priests and civil, judicial and military functionaries, but only a limited number of Brahmins. Figure 3 shows the distribution of the caste groups in the Law Council which gave final approval to bringing the MA into effect. The diagram demonstrates that among all members of the Law Council only 21 percent were Brahmins. Among these, only four persons of high rank and 12 of middle rank could have played an influential role during the codification of the MA. If the main aim of the caste regulations laid down in the MA were to create a strong Brahmanical Hindu state, the number of learned Brahmins would have been comparatively greater, and the norms of Brahmanical orthodoxy would have been incorporated into parts of the MA relating not only to religious affairs but also to state affairs.

Secondly, as stated by D. Bista, the caste system laid down in the MA was not a new scheme but rather an attempt to place the diverse caste practices implemented by Jaya Shhti Malla and earlier Śāha kings within a single legal state framework. Were the MA meant to achieve a strategy of Hinduization, it would have put in place the rigid caste hierarchy laid down in the dharmaśāstra texts. For example, the Gautamīyadharmasūtra (GDhS) specifies certain duties for all four classes: All Twice-born classes have to fulfil the duties of engaging in study carrying out sacrifices and offering oblations. Brahmins have the additional duties of teaching the Vedas, sacrificing for others and accepting gifts. The king, and Kṣatriyas in general, are tasked with protecting all creatures, imposing punishment in order to maintain justice and supporting Brahmins versed in the Vedas. Vaiśyas should engage in agriculture, trading, animal farming and money lending. Śūdras are assigned the task of being of service to all members of

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397 See Bista 1977: 19.
398 dvijātīnām adhyayanam iyyā dānam. (GDhS 10.1).
399 brahmanasyādhikāḥ pravacanavājanapratigrāhāḥ. (GDhS 10.2).
400 rājño dhikāṁ raksānam sarvabhūtānāṁ nyāyadaṇḍatvam bibhṛyād brāhmaṇāc chrotriyān [...]. (GDhS 10.7–9).
401 vaiśyasyādhikāṁ kṛṣivanikpāṣupālyakusīdam. (GDhS 10.49).
the three other upper varnas and earn their livelihood from such service.\textsuperscript{402} It is this model of the Brahmanical varṇa-system that Jaya Sthiti Malla’s caste reformation follows.\textsuperscript{403} The MA by contrast explicitly refrains from assigning type of livelihood according to a person’s caste status:\textsuperscript{404}

One’s occupation (ilama) is not governed by caste [membership]. [The members of] all of Four Varṇas and Thirty-six Jātas may earn their living by sharpening tools (i.e., the smith’s occupation), cobbling shoes or sewing clothes, working in mines, panning for gold, firing brick-kilns (avāla), pursuing the potter’s (kumhāla) trade, preparing leather for mādala drums or any other [such] work as an occupation, [or else] may work in commerce (beca-bikhana). Nobody is to be reduced in caste,

\textsuperscript{402} paricaryā cottaresām tebhya vṛttim lipseta. (GDhS 10.56–57).
\textsuperscript{403} NyāV, p. 269 and a parallel in NārSm 18.47.
\textsuperscript{404} For example, the injunction of Manu tells that na lokavṛttam vartteta vṛttihetoḥ kathaṃcana. ajihmām aśaṭhāṃ śuddhāṃ jived brahmaṇajīvikāṃ. [Brahmins] “must never follow a worldly occupation for the sake of livelihood, but subsist by means of pure, upright and honest livelihood proper to the Brahmin.” (MDh 4.11, translated in Olivelle 2005: 124).
and anyone who says otherwise and refuses cooked rice or water commensality will be fined 50 rupees.\textsuperscript{405}

What is striking in the above passage is that contrary to both shastric and customary practices, such professions as cobbleshoe\-\-shoes, sewing\-\-clothes and working metal used to be carried out by Water-unacceptable and Untouchable castes according to Hindu customary practice.\textsuperscript{406} More surprisingly, the MA explicitly permits all caste groups to carry out trade in any articles, irrespective of the degree of their impurity. It states:

\begin{quote}
[The members of] all Four V arṇas and Thirty-six Jātas shall be allowed to engage in work, from [dealing with] human and pig excrement at the bottom to [dealing with] diamonds and pearls at the top. [They] shall also be allowed to weigh [using] \textit{mānā}, \textsuperscript{407} \textit{pāthī} \textsuperscript{408} [and] \textit{kuruvā} \textsuperscript{409} [measures] and scales (\textit{tulā}). No fault shall be assigned [to them for doing so,] nor shall they be degraded in caste. Whoever says otherwise shall be fined 50 rupees.\textsuperscript{410}
\end{quote}

Similarly, contrary to Manu and customary practice in Nepal, the MA permits people of all \textit{varṇas} and caste groups to plough irrespective of sex:

\begin{quote}
No fault shall be ascribed to men or women from all Four V arṇas and Thirty-six Jātas [including] Upādhyāya Brahmins, Jaisī Brahmins, Rājapūtas and Newars from the three cities [of Bhaktapur, Kathmandu and Patan] for ploughing with a yoke of bulls, he-buffaloes or horses in order to earn their livelihood. No expiation needs to be undertaken by those who plough. If
\end{quote}

\textsuperscript{405} \textit{ilam bhanyāko jāta jātako chaina. cāra varṇa chatisai jāta savaile pāīna hālanu juttā kapadaśa syuna khāni khanṇa suṇa dhuna avālamā āgo lāunu kum-hāλko kāma garna mādalabarīmā khari lagānu gaihra savai kāmako ilam garna veka vikhana gari jivikā garna humcha. jāta jādaina. esmā jāta jāṃcha bhamnyā ra bhāta pāni kādhnyā[ā]ji 50/50 rūpaiyā daṃḍa garna. (MA-ED2/31 § 7). This section is translated in Höfer 2004: 92 and Šubedi 2010: 140–141.

\textsuperscript{406} See MA-ED2/160.

\textsuperscript{407} A volumetric unit equivalent to 0.568 litres, or \(\frac{1}{8}\) of a \textit{pāthī}.

\textsuperscript{408} A volumetric unit equivalent to 4.564 litres comprising 8 \textit{mānās}.

\textsuperscript{409} Volumetric unit equivalent to two \textit{mānā}, or 20 \textit{muṭhī}.

\textsuperscript{410} \textit{cāra varṇa chatisai jāta gaihrale tala mānis sāgurako narka ubho hirā moti sammako vandavepāra garna humcha. mānā pāthi kuruvā tulā ḍhakle bharmu taulaunu josanu pani humcha. khata lāgdaina jāta pani āĝdaina. khata lāg-cha bhamnyā ra jāta jāṃcha bhamnyālāi 50/50 rūpaiyā daṃḍa garna. (MA-ED2/31 §8).
somebody refuses [anyone] cooked rice commensality (*bhāta kāḍhanu*) for having ploughed, he shall be fined 10 rupees; if water commensality (*pānī kāḍhanu*), 5 rupees.\(^{411}\)

If a man or woman of any of the Four *Vārṇas* and Thirty-six *Jātas* is faulted for having ploughed and is fined by an *adālata*, *ṭhānā* or *amāla*, the person in the *adālata*, *ṭhānā* or *amāla* who [agreed with the accusation and also] ascribed [such a] fault shall be fined an amount equal to the fine they (i.e., the legal bodies) imposed.\(^{412}\)

The above provisions demonstrate that the MA is fundamentally liberal in terms of letting people choose or change their form of livelihood (*jīvikā*) at will, in contrast to the Brahmanical *varṇa*-system and Hindu customary practices, according to which the spectrum of occupations open to one was set at birth as one of the elements essential for protecting a person’s social and religious purity. Occupations, then, were a measure of purity, and authorities were ordered to punish anyone who chose a conventionally improper way of making a living. One can argue, therefore, that the aim of the MA was not to establish a strong hierarchical Hindu society. It rather incorporated new and contemporary social practices that were arising from within a caste system in which Hindu norms continued to be dominant. Since a complete modification of the existing social and caste customs was beyond the power of Jaṅga Bahādura, the existing Hindu caste customs were liberalised and brought within a single legal framework, one consequence of which was to advance the weak state economy of the Rāṇā regime. For example, the centralisation of the collection of fines paid in settlements of caste- and norms-related disputes increased the state’s income, while letting people choose their own livelihoods spurred economic activity. The MA, then, did not radically call the existing caste system into question, which could have resulted in political and social chaos, but it did alter it in ways that improved the economy. Since the caste system

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\(^{411}\) upādhyāya jaisi rajaputa tina saharakā nevāra jāta gaihra cāra varṇa chatis jātakā lognyā svāsniharūle āphnā jīvikā nimitta gorū rāṃgā ghodā nāri halo jotanyālai khata lāgdaina. jotanyāle praśvaścitta pani garnu pardaina. kasaile halo jotyo bhani bhāta kāḍhyā bhanyā 10 pāni kāḍhyā 5 rūpaiyākā darale kāḍhanyālai daṃḍa garnu. (MA-ED2/31 § 5).

\(^{412}\) cāra varṇa chatisai jāta gaihrakā lognyā svāsniharūle halo jotyo bhani khata lagāi adālat thāṇā amālavāta daṃḍa garyā bhanyā unle garyākā daṃḍako vigo vanojim khata lāunyā adālata thāṇā amālavālā jo ho usailāi daṃḍa gari linu. (MA-ED2/31 § 6).
had never been implemented in all its rigidity in most of pre-modern Nepal, it was fairly easy to integrate newcomers and the non-Hindu parts of the population into caste society, since they were allowed to continue engaging in their own customary activities.\footnote{See Bista 1977: 18.} For example, section 18 of Article 99 permits a man to marry a female cousin on his father’s side if that is the customary practice:

People of caste groups who have had the ancestral custom of marrying one’s own paternal aunt’s daughter (phupukā chorī), the descendant of a shared grandfather, are allowed to do so. No fault shall be ascribed to them [for doing so]. If people of caste groups who have had no such custom since ancient times wed [in such a manner], they shall be punished in accordance with the Ain.\footnote{aghi pitā pursādesi phupukā chori vīhā garnyā rīta caliāyākā jātale āphnā ekā bājyābāṭa jātale vihā garyākā phupukā chori bihā garna humcha śata lāgdaina. parāpūravadesi nacalyākā jātale vīhā garyā aina vamojima sajāya garnu. (MA-ED2/99 § 18).}

Nepal was thus known as a Hindu kingdom without many key characteristic features of a mainstream Brahmanical society.\footnote{See Bista 1977: 18 and 20.} Moreover, even though the MA displays many marks of a confessional state, the regulations that enshrined religious pluralism in the caste system represent further evidence that the caste system of the MA was not a strategy of Hinduization. The MA explicitly safeguards the right to practise one’s own religion and customs, which Höfer\footnote{See Höfer 2004: 93.} interprets as confessional tolerance. The following provision demonstrates this:

Upādhyāya Brahmins, Rājapūtas, Jaisīs, Kṣatriyas and so forth who [belong to] the caste groups of Sacred Thread-wearers, all castes belonging to the Non-enslavable and Enslavable Alcohol-drinkers, Europeans (lit. caste of Europeans), Muslims (lit. caste of Muslims), all castes belonging to the Water-unacceptable but Touchable [caste class] and all castes belonging to Untouchable [caste class], all these people, within the territory of Gorkhā Kingdom, may perform any act in accordance with the practices carried out by their clans of [their] own tradition [which leads] to dharma except cow slaughter. Nobody shall get angry about such matters. If somebody gets angry or quarrels in such matters
and comes to complain in a Kacaharī, the one who does such an act that ruins others' tradition shall be fined one hundred rupees. If the fine is not paid, he shall be imprisoned in accordance with the Ain. If it comes to be known that a fight occurred [regarding such matters] in which somebody dies, the killer, if he is a member of the caste groups who are allowed to be sentenced to death, shall be sentenced to death. [If the killer] is a member of the caste groups who are not allowed to be sentenced to death, he shall be branded and [his] share of property shall be confiscated in accordance with the Ain.\textsuperscript{417}

To a certain degree, then, the MA represented an attempt to create a confessional state by accommodating the pluralistic social and religious cultures and customs of pre-modern Nepal within a single legal framework in which a Hindu caste system—if one vastly deviating from the classical Brahmanical orthodoxy—was still dominant. Except for a few regulations, such as the ban on cow slaughter, a rigid Brahmanical orthodoxy was not imposed on anyone not belonging to the Hindu tradition. Furthermore, again barring a few exceptions, the MA does not specify which caste group (jāta) falls under which caste class. This, too, shows that the strategy guiding caste regulation in the legal code was not to intervene in customary practices. For example, the Alcohol-drinking Kṣatriyas in the Western Himalayas do not fall under any caste category laid down in the MA. Since they consumed alcohol, they could not, according to the MA, retain their caste status as Kṣatriyas, but still they were regarded as Kṣatriyas by birth.\textsuperscript{418} Thus, the specific stance of the MA requires careful historical analysis and contextualization if one is to accord it its proper place within the larger debates on caste in South Asia.

\textsuperscript{417} upādhyā vrāhmaṇa rajaputa jaisi ksatri gaihra tāgādhāri jāta namāsinyā matavāli gaihra māsinyā matavāli gaihra jāta iyuropiyena jāta musalmān jāta choi chiṣto hālanu naparnyā pāni nacalnyā gaihra jāta choyā chiṣto hālanu parnyā gaihra jātale gorsārāja bharmulukamā govadha garnā vāheka arā āphnā kulale gari āyā vamojima āphnā āphnā majhapkā dharma hunyā kāma kurā savale gaihra kāma yaskurāmā kasaile rīsa nagarnu. ēstawāmā rīsa rāga jhagādā bhai kaacaharinā karāuna āyā bhanyā arkākā majhaplāī khalal hunyā kurā gaihra mānā 100 rūpaiyā dānda garnu. rūpaiyā natiryā āina vamojima kaidu garnu. jhagādā bhai jyāna mārča bhanyā mānnyā kātīnā jāta bhayā jyānako vadalā jyāna linu. nakātīnā jāta bhayā āina vamojima āmsa sarvasva gari dāmala garnu. (MA-ED2/89 § 10). This section has been translated in Michaels 2005b: 92 and quoted and explained in Höfer 2004: 134.

\textsuperscript{418} See Bista 1977: 19.
2 The *Mulukī Ain* on Homicide

The modern political history of Nepal starts in the second half of the eighteenth century, after Pṛthvī Narāyaṇa Śāha conquered all petty kingdoms of the realm and, in doing so, established a strong foundation for a politically unified and socially cohesive Nepal. This unification process was a political and military expansion of his Gorkhā kingdom, which can be interpreted as a threefold process, with the political and military expansion featuring as the ‘first’ and ‘second degree’ of unification. The legal unification of the country, on the other hand, represented the third and most difficult stage in the process. For, whereas the unification brought about by Pṛthvī Narāyaṇa Śāha was only geographical in nature, the enactment of the MA aimed at a social and cultural unification among the country’s various ethnic, caste and social groups within a single legal framework.

Therefore, the political and military unification of Nepal in itself did not bring about significant changes in the kingdom’s legal practices. Prior to the enactment of the first legal code in 1854, a prevailing principle dominated: “sin and crime should be punished—for the sake of order.” However, this had scarcely been formalized in any specific written code. Therefore, the question always remained as to how the moral, religious and legal standards were to be practically applied by individuals and by social and religious institutions; who, in Michael’s words, would be the agent to implement them: a god, king or priest? The pre-*Mulukī Ain* period saw various principles and practices being observed in jurisprudence. On the one hand, royal decrees and other official documents such as *rukkās*, *lālamoharas*, *sanadas*, *pūrjīs* (writ/written notice), *pramāṅgīs* and *hukumas* were issued by wielders of power—kings, prime ministers, court pandits, legislative bodies and the like—either to establish new laws or to re-enforce the legal norms that had been introduced at some earlier point, such as

1 See Pradhananga 2001: 206.
2 See Michaels 2005b: 5.
3 See Michaels 2005b: 5.
the existing customs relating to the various castes and ethnic groups.⁴ For their part, royal priests and preceptors (rājagurus or rājapaṇḍitaś) were given prominent positions in the legal administration of the royal courts. They also acted as judges in cases concerning matters of purity and pollution.⁵

The enactment of the MA, however, established a firmer foundation favourable to the legal unification of modern Nepal by harmonizing previously practised legal procedures, political and social cultures, customs and new political thought into a single legal framework. The MA not only provided an integrated system of unified law that applied most parts of the kingdom (and under which the principles of legal pluralism and relativism are accepted) but also assigned positions, roles and tasks to the various state and social bodies tagged to universally implement the nation-state’s principal doctrine (‘sin and crime should be punished’). This minimized the role of royal priests, who had previously functioned as minor state authorities granting expiation⁶ if instructed to do so either by the courts or, in exceptional cases, by the head of state.

It is against this background that I shall be discussing the history of homicide law in Nepal in the following section. The Article ‘On Homicide’ from the MA versions of 1854 and 1870 I regard as paradigmatic for the following reasons: (i) no extensive formulation of homicide law existed before the promulgation of the MA; (ii) the MA sets forth detailed regulations on homicide that are bound to the concept of the rule of law expressed in the words ‘every offender irrespective of his ritual, social or individual identity shall be punished’; (iii) it largely accepts the shastric ban on putting the king, Brahmins and women to death, but at the same time (iv) it develops a new course of action whereby offenders who are exempt from the death penalty are not banished but rather imprisoned for life, thus enacting the death penalty in a symbolical fashion; (v) under some specific conditions, it does sanction the execution of Brahmins; finally, (vi) it introduces the new standard of basing judgement on whether the crime was committed intentionally or not, and whether the person is of sound mind or not. Bearing as it does all these characteristic features, the 1854 MA Article ‘On Homicide’ serves as a suitable template for addressing all the problems posed to research mentioned at the beginning.⁷ The 1870

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⁵ See Michaels 2005b: 12.
⁶ See Michaels 2005b: 17.
⁷ See Part I, 1.1.
MA Article ‘On Homicide’ for its part will help to show the growing awareness and cumulative experience gained within legal practice during the codification process, which in turn will help to answer the question whether the MA was merely a scholarly composition or actually served practical ends.

2.1 The History of Homicide Law in Nepal

The term ‘homicide’ is a neutral term designating any act involving the killing of a person by another person—neutral in the sense of not explicitly pronouncing upon whether the killing is lawful or unlawful. The rationale for the criminalization of homicide is based on the basic value of human life accepted in almost all societies. According to J. Michael & H. Wechsler, “… the principle end to be served by the law of homicide is the preservation of life….” Concerning the history of homicide law in Nepal, no systematic development of it can be traced back before the codification of the MA. Thus, the historical development of law on homicide in Nepal can be divided into the pre-codification period (from Licchavi times until the emergence of the MA in 1854) and the post-codification era (after the MA).

2.1.1 Homicide Law before Unification

*Licchavi period*

As was discussed in the first chapter, the recorded legal history of Nepal starts with the Licchavi period in the form of around two hundred inscriptions. The inscriptions are mostly concerned with memorialising personal deeds (e.g., donations or the like) and otherwise glorifying Licchavi elites, and there are no clear hints that the Licchavi rulers had in place a systematic penal system based on concrete legal codes or doctrines. Specialists such as T.R. Vaidya and T.R. Manandhar, and R.B. Pradhananga who have extensively contributed to the historical

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8 See Morris & Howard 1964: 113.
10 Colonel Ujira Simha proposed some regulations relating to homicide, which I shall deal with below (see Table 8).
evaluation of crime and punishment in ancient and modern Nepal argue that the Licchavi jurisprudential system was based on Hindu legal scriptures. T.R. Vaidya & T.R. Manandhar write: “In ancient time the laws of Manu, Yajnavalkya (sic), Bṛhaspati and others were implemented in Nepal.”  

Similarly, following T.R. Vaidya & T.R. Manandhar, R.B. Pradhananga states: “With the rise of the Licchhavi in ancient Nepal, they started not only [a] social system on the basis of Hindu Dharmasastra but also they introduced political and legal system based on Hindu Dharmasastra.” Such arguments with very limited historical sources to back them up do little to verify the hypothesis that Hindu legal scriptures were the main sources of Licchavi jurisprudence. However, it can be safely argued, on the basis of the available Licchavi inscriptions, that Licchavi rulers did give thought to establishing a working legal system. For example, the edict issued by Śivadeva and Aṃśuvarman (dated Saṃvat 519) permits subjects living in Kādun village in the Satuṅgala area to collect wood and grass from the forest. If they are prevented by the subjects of Pheraṅkoṭṭa from doing so, the latter will be subjected to punishment. The inscription reads:

Hail! The enthroned great king, glorious Śivadeva, who resides in Mānagrha, whose success is grounded in his enormous virtue, who resembles the banner of the Licchavi clan and who is in sound health, [first] the inhabitants of Kādun village—the headmen [and] village householders—about their well-being, and [then] ordered [the following]: You should know [that] out of respect for the glorious Mahāsāmanta Aṃśuvarman, whose face resembles the moon of a cloudless autumn [sky] and whose might is well known to rivals, and in kindness [to you], I, having been requested [by him to do so,] have inscribed this order on stone. This favour is done for you. The inhabitants of Pheraṅkoṭṭa or any other [place] shall neither seize sickles, machetes, axes or wood from the inhabitants of your village, nor restrain them on their way to or from collecting wood or pasture grass (ghāsa-patra) from around the forest. Whoever disobeys this order and acts or causes acts contrary to it (anyathā) will be subdued for disobeying a royal order (nṛpājñā). This favour shall be kept [in place] also by future kings who [know] the weightiness of

2.1 The History of Homicide Law in Nepal — 107

*dharma* and who respect the favours done by their great predecessors. … Saṃvat 519….

The legal prescription contained in the above royal edict is quite short and clear, but it does not contribute significantly to understanding the contemporaneous penal system. The edict codifies the basic sanction that anyone who violates the regulation inscribed on stone will be punished. It does not, however, define the nature of that punishment, whether, for instance, it took the form of a fine, imprisonment or a verbal reprimand (*dhigdanda*). Many similar general expressions can be observed in the other inscriptions. For example, the Vasanta-deva inscription of Bāhālukhā (Patan) dated Saṃvat 435 mentions: “… No one among you who is dependent on us [for your livelihood] shall violate this [royal] order. I shall assign to whoever flouts this order and violates it suitable punishment in accordance with the law.”

This implies that the Licchavi legal system provided for a defined set of punishments for a defined set of offences, but it is not clear whether it was explicitly based on Hindu legal scriptures. The scattered references relating to homicide observed in Licchavi inscriptions suggest that murder was taken as one of the *pañcamahāpātakas* (five heinous sins), but the punishment for murder during the Licchavi period seems to have varied depending largely on the temperament of the rulers.

15 *(om svasti)* mānagṛhān niratiśayagyunasampadāva (...) *(l)icchavikutaketur bhaṭṭārakamahārāja(śrī)śivaḥ kuśālām āśñā kādūrgāma śivaḥ kuśalām kuśalāṃ pradhānaprāthasaśānā gauravāte śrīmahāsā(ma)ṃ(śu)varmanā virāṛṣṭāṃ sātā mayait-<br>adgauravād yu(smad) anukampayā ca silāḍatākaśāsane ’bhikhyā prasā(do) ’yan vah krto yusnowdramanvānānā itah kāṣṭhagāspatrāharanāya sarvavtra vanabhūmih gacchatāṃ taddādāyagacchatāṃ cādhvani phertenātvanvānāsibhir anyaś ca na kaiśicī dātrakāṭṭārakakuhārakāṣṭhād ākṣepo vidhāranā vā kāṛyaṃ vā tv etāṃ aṭṭāṃ avinayavyānāḥ kuryāḥ kāṛayāḥ vā sa ni(ya)tanāyānātakramanānaṃ avāpyxātī bha(vi)syadhīrapi bāhaṣṭīsibhir adharmagurubhir gurukṛtaprasādānuvartitibhir yam prasadā ’nupālāyā (... ) samvā 519 (...). *(Inscription no. 65, Dh. Vajracharya 1973: 263–266).*

16 See, for example, Inscription nos. 64, 71, 105, 107 and 109 in Dh. Vajracharya 1973.

17 kathācīd yuṣmābhībīr amat(!) pādopajīvitibhib rhīyam aṭṭāṃ vraṇā ṣoṣyaḥ smārayad vā tasyāḥma yathocitaṃ maryādabandham aṃ tāṃ bhāṣyayīmī. *(Inscription no. 24 in Dh. Vajracharya 1973: 113).*

18 The concept of the *pañcamahāpātakas* is based on the dharmasūtras and -śāstras. For example, the VDHś (1.20) and MDh (11.55) list having sex with the wife of an elder (*gurutalpa*, MDh reads: *gurvaṅganāgama*), drinking liquor (*surāpāna*), killing a learned Brahmin (*brahmahatyā*), stealing gold from a Brahmin/stealing (*brahmansuvapāpaharaṇa*, MDh reads: *steya*) and union with outcasts (*paṭitasamyaṇa*) as the five grievous sins.
For example, the inscriptions of Bhīmārjunadeva and Viṣṇugupta at Yangūlahiti/Yanlahiti and Bhṛṅgāreśvara dated Samvat 64 and 65 state that a murderer should be punished by confiscating his property. It also mentions that only the offender himself, not his family members, is to be held accountable for the crime he committed. The first inscription reads:

If somebody who lives in this territory, the fourth part of Draṅga, commits thievery, adultery or murder, or rebels against the king, only his own property, consisting of house, land, cows or the like, shall become [the property] of the royal family. Not even a small portion of property of the offender’s kinsmen … shall unjustly be confiscated.19

The second inscription reads:

If somebody is convicted for committing the crime of thievery, adultery, murder or rebellion against the king, only his own property [consisting of] house, land, cows or the like shall be confiscated. [No property] of his kinsmen shall be seized. Anyone who has suffered what is unthinkable, [namely] the crime of … must be compensated [only] with the offender’s own property….20

By contrast, the Narendradeva inscription at Yāgabahāla states that murder should be punished by enslavement, with the perpetrator’s entire property, including his wife, being given to the Āryasaṅgha:

The regulation [provides] the royal family with the right only to enslave an [offender] (lit. body of an offender) who has committed [one] of the five heinous crimes—thievery, adultery, murder and the like—and the Āryasaṅgha to the entirety of the

19 taddraṅgacaturbhāgasīmābhyantaravartinaś cauraparādāhayāyājādrolakāparādham avāpnyus tesām eva evāmunāpādhena dosavatām yadātmīyam eva grhakṣetragōdhanāidīravya(n) (ta)d eva rājakalābhāvyam etad dosābhāvastastānāṃ ye dāyādās tebhya … … (nā)yūyenālpam api kraṣṭavyam ity eṣa ca bhavatā […] Inscription no. 117 in Dh. Vajracharya 1973: 442–443.
20 […] cauraparādāhayāyājādrolakāparādham ca prāpnuvato yad acintyanākara (…) līpratibaddhagṛhakṣetragāvinā svadravyenātva (…) jayitavas tad-dāyādebhāyām nātrāpahāraḥ kartavyā iti […] (Inscription no. 118 in Dh. Vajracharya 1973: 449).
property of the offender: his house, land, wife and the like. We transfer the [reign over such a village] to Āryabhikṣusāṅgha of the venerable Śivadeva vihāra, home to persons [coming] from all four directions.\textsuperscript{21}

It may be observed in the above-discussed inscriptions that homicide was considered to be one of the grievous crimes by Licchavi rulers, and so grievous as to be punishable by death and the confiscation of their property (but in no case that of their kinsmen). The inscriptions of Bhīmarjunadeva and Viṣṇugupta at Yangālahiṭī and Bhṛṅgāreśvara, on the one hand, which assign personal liability for the crime, and the Nar- endradeva inscription at Yāgabahāla, on the other, which apportions collective accountability, bear witness to the different ways of punishing homicide. This suggests that the Licchavi penal code was not based on any particular Hindu law scripture. R. B. Pradhananga, referring to T. R. Vaidya & T. R. Manandhar, argues that Licchavi rulers ended capital punishment, replacing it with enslavement and confiscation of property.\textsuperscript{22} It seems that they came to this conclusion through a misunderstanding of a phrase in the Narendradeva inscription at Yāgabahāla: ‘… śarīramātram rājakulābhāvyan tad […]’\textsuperscript{23} (“the royal clan will have the right to the body of a murderer”), which T. R. Vaidya & T. R. Manandhar and R. B. Pradhananga understand as enslavement. However, the syntax and other parallel references suggest that the right to the body means the king’s final authority to execute him. For example, the inscription nos. 31, 32 and 44\textsuperscript{24} explicitly prohibit local judicial bodies from investigating and imposing punishment on perpetrators who committed one of the five heinous crimes, thereby directing them to forward such cases directly to the king.

Further, regarding the law on homicide during the Licchavi period, T. R. Vaidya & T. R. Manandhar\textsuperscript{25} and R. B. Pradhananga\textsuperscript{26} both reach the conclusion that Brahmins were exempted from the above punishments because of their superior social standing. The inscriptions

themselves do not reveal whether these punishments were meant also for Brahmins or were waived in the face of the legal privileges accorded them in the dharmashastras. More generally, it is uncertain just how much the varṇa-system served as a model during the Licchavi period and what the exact position of Brahmins was during it.

**Malla period**

It is hard to draw a sharp temporal divide between the Licchavi and Malla periods. No documented evidence so far has been found which can tell us when Licchavi rule ended and the Mallas started controlling the country from its centre in the Kathmandu Valley. As M. R. Panta argues, the Malla period probably started from the time when the first complete sentences in Newari appeared in the inscriptions. Starting from around 982, we find hundreds of legal and administrative records written on palm leaves, and some on copperplates, that go back to the Malla period. Such sources mostly are deeds relating to real property and the like. For example, a copperplate of King Jayāditya II records a deed granting a village to one Udayāditya, a merchant. It reads:

[…] You [who are living in this village] know that we, pleased with the outstanding service [received from you], have granted the above-mentioned village [called] Vilivilikā including Tala, Draṅga, land and water [resources], mangos, mahuvās and [other] trees, and all royal taxes [to be collected] within the boundaries of this village, to the merchant Udayāditya, a son of the merchant Kulāditya, a resident of Vikrama, under such terms whereby we ourselves do not charge [this village] for anything […]

27 M. R. Panta calls the Malla period the Newar kingdom (see M. R. Panta 2013b: 1).
29 To get an overview of the legal records from the Malla period, see, for example, Rajvamshi 1983a, 1983b and 1984; also, Śākyabhikṣu 1999, 2000 and 2001.
30 The name of probably two different varieties of the *Engelhardtia* tree species: *E. spicata* and *E. acerifolia*.
31 Probably the name of a village.
Such legal records can prove useful in shedding light on the economic and administrative history of mediaeval Nepal, but they do not contribute much to an understanding of criminal legal policies and their historical development during that time. Nevertheless, it has been often reiterated by native Nepalese scholars that homicide law in mediaeval Nepal was explicitly based on Hindu legal scriptures.\textsuperscript{33} Since their arguments are based on the oral transmission of history, it remains difficult to ascertain the extent to which Hindu legal scriptures were implemented regarding homicide law in mediaeval Nepal before the last quarter of the fourteenth century. Jaya Sthiti Malla is the first ruler who, thanks to his nation-state, ensured that the legal history of his own time would not be forgotten. But while the NyāV is often taken as the first law code of Nepal,\textsuperscript{34} it should be rather understood only as a first attempt towards a full-fledged written law, given that it lacks the characteristics of such codification: The incorporation of new political-legal thought as well as custom and usage.\textsuperscript{35} The NyāV resembles more the colonial Hindu legal digests (\textit{dharmanibandha}) composed in the late eighteenth century under direct colonial command.\textsuperscript{36} Just as the production of the digests of Hindu law of colonial India finally resulted in the codification of the Indian penal code, so too did the NyāV represent a milestone on the way to establishing a fully operational legal system in Nepal. That the NyāV was composed in the vernacular Newari as well as in Sanskrit makes it is all the more probable that it was not merely a utopian construct but was meant to be applied to the current social setting. The colophon of the text states that the work was written for the ordinary public, who would have had no ability to understand the source text, the \textit{Nāradasmṛti}. It reads:

\begin{quote}
This weighty body of law handed down (\textit{udita}) [by] the Nārada school is hardly understandable for those of little knowledge. [Therefore,] this clear commentary on it is written in Naipālabhāśā (i.e., the language of the Malla kingdoms in the Kathmandu Valley, and still spoken today by the Newar
\end{quote}

\textsuperscript{33} See, for example, Vaidya & Manandhar 1985: 63, and Pradhananga 2001: 201.
\textsuperscript{34} See, for example, Pradhananga 2001: 201.
\textsuperscript{35} See J.E. Wilson 2007 for a discussion of the constitutive concepts of codification.
\textsuperscript{36} For an in-depth examination of the legal digests (\textit{dharmanibandha}), commissioned in colonial India, see Cubelic 2021, also see J.E. Wilson 2007: 16.
community). May kings and others understand it, and progress along the path of proper law.\(^{37}\)

However, no historical evidence is available to substantiate the hypothesis that the NyāV reflected the social realities of that time. It is based on the Nāradasmṛti, and shares the basic elements from the latter regarding homicide law. Table 7 outlines the regulations on homicide and capital punishment laid down in the NyāV.

It is evident that the NyāV was following the NārSm—and thereby ignoring other Hindu legal scriptures in which women are punished differently when charged with homicide—when it formulated the general rule stating that everyone not a Brahmin was to be punished by death for capital crimes.\(^{38}\) The same text states that those who kill women are sinners.\(^{39}\) This would imply that it would be a sin to sentence a female criminal to death.

Table 7 demonstrates that the NyāV formulates a general injunction that, since murder is the unlawful killing of a human being, murderers should be punished according to their caste status. Some noteworthy exceptions are mentioned: Brahmins, for example, may not be killed. Although the NyāV does not elaborate upon homicide law in detail, it nevertheless took the initial step towards a codification of it in vernacular languages.

Another noteworthy document of mediaeval Nepal dealing with homicide law is Rāma Śāha’s edict.\(^{40}\) Sections 15 and 16 briefly deal with homicide law. The edict exempts ministers, male kin of the king, clan members, ascetics, Bhāṭa\(^{41}\) and Brahmins from being sentenced to death whenever they committed, or attempted to commit, murder. They should instead be punished by having their head shaved and being

\(^{37}\) idam alpadhiyāmi(!) nṛṇām(!) durvviṇḍeyam yatodhitam(!). nāradīyaṃ vad astīha nyāyaśāstraṃ mahārśhayat yasyeyam(!) likhyate ṭīkā spaṣṭā naipālabhāṣayā. imāṃ vijñāya bhūpādyāś carau(!) Nyāv, p. 326.

\(^{38}\) aviśeṣena sarvasām esa dandavidhīḥ smṛtaḥ. vadāhīḥ(!) rte brahmaṇasya(!) na vadhat(!) brahmaṇo(!) ’rhatti. “[Be it] kept in mind that the types of punishment mentioned [here] are to be equally [applied] to all [castes] excluding Brahmins [in the case] of capital punishment. Brahmins may not be killed.” (NyāV, p. 226, and the parallel in NārSm 14.8).

\(^{39}\) See NyāV, p. 298, and the parallel in NārSm 201 fn. 1.

\(^{40}\) See above, Part I, 1.3.2.

\(^{41}\) 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 Daśānāmī, Jogī, Jaṅgama, Sannyāsī, Sebadā, Kanaphatṭā, Vairāgī or other kinds of ascetics.
Table 7: Regulations pertaining to homicide according to the NyāV

<table>
<thead>
<tr>
<th>Type of crime</th>
<th>Caste / Group / Individual</th>
<th>Capital punishment</th>
<th>Parallel in NārSm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder with the use of a weapon or the administration of poison, or attempted murder</td>
<td>Brahmins</td>
<td>no; shaving, exile from the city, branding and made to ride a donkey</td>
<td>14.8</td>
</tr>
<tr>
<td></td>
<td>non-Brahmins</td>
<td>yes</td>
<td>14.7</td>
</tr>
<tr>
<td>Theft of high degree</td>
<td>Brahmins</td>
<td>no; shall receive the same punishment as for homicide</td>
<td>14.20</td>
</tr>
<tr>
<td></td>
<td>non-Brahmins</td>
<td>yes</td>
<td>14.20</td>
</tr>
<tr>
<td>Violation of customary practices</td>
<td>A śvapāka, napum-saka, cāṇḍāla, cripple, butcher, an elephant rider, pravātya or wife(s) of an elder or preceptor</td>
<td>yes</td>
<td>15/16. 12–13</td>
</tr>
<tr>
<td>Insulting a Brahmin</td>
<td>a Śūdra</td>
<td>yes</td>
<td>15/16.16</td>
</tr>
<tr>
<td>Abduction of an unmarried girl</td>
<td>non-Brahmins</td>
<td>yes</td>
<td>19.35</td>
</tr>
</tbody>
</table>

i Brahmins who were punished for committing murder were not readmitted into the caste, i.e., they could not undergo expiation or penance (see NyāV, p. 227, and the parallel in NārSm 14.10).


iii The NyāV categorizes theft as of low, middle and high degree depending on the object stolen (see NyāV, p. 229–230, and the parallel in NārSm 14.13–16).

iv The source text in Sanskrit reads: [...] muryādātikrame sadyo ghāta evānuśāsanam. na ca tad dandapārśuyovedoṃ ōhur maniṣinah “[...] should [people] violate customary rules, an immediate beating [or killing] is their punishment; the wise say that is not an offence amounting to [excessive] harshness of punishment.” Whether this is seen as imposing the death penalty varies from scholar to scholar. For example, R. W. Lariviere (2003: 419) discusses Bhavyā’s comment that beating or even killing these persons for violation of customary rules does not constitute an offence. Lariviere himself restricts the meaning of ghāta here to ‘beating’. The Newari version of the NyāV, by contrast, translates this term as syācāntālava, meaning not ‘beating’ but ‘killing’. The context suggests that the intended sense is more likely to have been ‘beating’, but the Newari version may have actually led to imposing the death penalty for violating customary law during Jaya Sthiti Mallāś time. This demonstrates that deviations from the dharmaśāstra within the vernacular tradition were thinkable in spite of that tradition’s being based specifically on the śāstras.

v A person from an outcaste tribe.

vi A man who is impotent.

vii A man who is uninitiated.
exiled from the city. If other groups, such as Khasas, Magaras or New-ars, do the same, they are to be punished by death, though their family members are exempted from legal scrutiny. It reads:

Edict the fifteenth: If ministers (cautarīyā),\(^{42}\) their brothers or members from the same clan commit grave offences leading to the loss of life, they shall be shaven and exiled to a foreign territory. If ascetics [from different schools such as] the [Daśanāma/Daśanāmī]\(^{43}\) Sanyāsins, Vairāgins\(^{44}\) or Bhāṭas, commit [such] a grave offence too, they shall be shaven and exiled to a foreign territory. The purpose of exiling brothers [of, cautariyās], or [other] members of their clan to a foreign territory is what is stated in the śāstras, namely that if somebody commits the offence of taking a [human] life, his [own] life shall be taken. If [the murderer] is executed, [the king] commits the sin of killing a kinsman; if [he] is not executed, the king commits the sin [of not punishing a criminal]. Therefore, it is said that they should be shaven and exiled to a foreign territory, since expulsion from the country is equivalent to death. [Similarly,] if a Brahmin is executed, the king commits the sin of killing a Brahmin; if he is not executed, he commits the sin [of not punishing a criminal]. It is said that shaving [a Brahmin’s head] is also equivalent to death. Thus, they are to have their heads shaved and to be exiled to a foreign territory. It is said that, since the Daśanāma and Vairāgī ascetics are not to be executed because they wear renunciants’ clothes (bheṣa), and Bhāṭas, too, are not to be executed, so they are ordered exiled. [The king] has therefore made provisions [for all] to act accordingly.\(^{45}\)

\(^{42}\) A cautariyā is a principal officer of state. The role of a cautariyā in mediaeval and pre-modern Nepal is not always the same. During the early Śāha period, he was a royal appointed usually to perform the functions of a chief minister, minister or councilor. They were also appointed to such important administrative posts as governor of a district (see Kumar 1967: 164–165).

\(^{43}\) An order of Śaiva ascetics said to be founded by Śaṅkarācharya.

\(^{44}\) A Vaisṣṇava ascetic of the Rāmānandī Sampradāya.

\(^{45}\) paṃdhrau thiti. cautariyā bhāṅghotīya inahrāle jīya sambadhi thālo virāu garyā muḍi videsa garāunu. sannyāsi vairāgi bhāṅgha inale pani thālo virāu garyā bhaṅgyā muḍi videsa nikāla garāunu. bhāṅgh cautariyā gotiyālāi videsa garāunu bhaṅyāko kyā artha bhanāyā jīu mārinyā pirāu garyo bhanāyā jīu linyāko jīu linyā bhamnyā sāstramā pani kahyāko cha. jīu māryā bhanāyā gotrayātā lāganyā namārvedeṣṭi bhanāyā rājālāi pratavāya lāganyā tasartha desanikālā garu pani māryai tulya cha bhani muḍī videsa garāunu bhanyāko ho. brahmanalāi pani māryā brahmāhātyā lāganyā namārī rājālāi pratavāya lāganyā taskārana muḍānu pani māryai tulya cha bhani muḍī videsa garāunu bhanyāko ho vairāgi
Edict the sixteenth—the king has made [the following] provisions: If among tribal groups (jāta) such as the Khasas, Magaras, Newars [anyone] commits an offence leading to the loss of life, only he who committed [such] an act shall be executed, [in accordance with adage] 'The neck of him who is guilty.'

King Rāma Śāha’s brief regulations relating to homicide, principally based on ideas drawn from the dharmaśāstras, did not contribute greatly to the further development of homicide law. However, the principle of ‘only the offender himself shall be punished but not his family’ seems to have been enforced to a certain degree by him. Some degree of influence from the Licchavi period in this regard is notable. The move, as R. B. Pradhananga notes, was a progressive one since it ended the system of punishment of a culprit’s family members. Although such strict adherence to personal accountability for crimes could be taken as a big step forward, it was neither the brainchild of Rāma Śāha nor did it have a long-term impact on the development of the concept of a murderer’s personal liability. For example, a rukkā issued by King Raṇa Bahādura Śāha in 1795 (VS 1852), around one and a half centuries later than Rāma Śāha, orders Kisna (Krṣṇa) Dhāmī, the father of a murderer, to pay a fine of 300 rupees. It reads:

Hail! This is a rukkā of the supreme king amongst great kings.

[Addressed to Kisna Dhāmī:

[We have come to know that] the drummer (nagārcī/nagarcī) who used to play the nagarā in the morning was assaulted by

\[
\text{saṁnyāsī} \ bheṣa \ liyākā \ hunāle \ avadhya \ chan. \ bhāta \ pani \ avadhya \ chan \ bhani \ deśa \ nikālā \ garnu \ bhanyāko \ ho. \ tasartha \ yasai \ garnu \ thiti \ vādhivaksanu \ bhayo. \quad (\text{RŚEdict 15}) \]

\[
\text{sohrau thiti.} \ \text{ṣasa magara nevāra prabhṛti jāta madhyanā jīvesambaṃdhi virāu garyā bhanyā jasale virāyako cha usaiko mātra jiye mārnu. jasko pāpa usko gairdhana bhanyā thiti vādhi vaksanu bhayo.} \quad (\text{RŚEdict 16})
\]

It is noteworthy here that the provisions of King Rāma Śāha’s edict are based on Nārada’s scripture, the same one from which the NyāV borrowed. The scripture states that “there is as much disregard of law in freeing one who should be executed as in executing one who should not be executed, and the king’s law is [thereby] kept in check.” yāvān avadhyasya vadhe tāvān vadhyasya mokṣane bhavyata adharma urpateḥ dharmas tu viniyacchataḥ. (NyāV, p. 289, and the parallel in NārSm 19.47).

See Pradhananga 2001: 203.

As mentioned above, the notion goes back to the Licchavi period, as documented in Bhūmārjunadeva’s and Viṣṇugupta’s inscriptions at Yaṅgālahiṭī and Bṛṅgāreśvara.
your son for having played the *nagarā* in the 7th and 8th *ghadī*\(^{50}\) of the night. [The drummer] survived the night and died [the next day]. […] One must observe [the rules] of society (*saṃsāra*). Therefore, [in lieu of your son] a fine of 300 rupees is imposed on you for the offence of [your son’s] having killed that person. Send the money through the hand of Tilaṃgā.\(^{51}\)

This document shows that homicide law in force in mediaeval Nepal was not always adopted in later times. The earlier regulations were abandoned by rulers who wanted to develop standards they thought better suited to the political context of their times.

**Post-unification**

As said earlier,\(^{52}\) the unification of various principalities did not bring any considerable change in the development of a countrywide legal system. After his victory over the rulers of the Kathmandu Valley, Pṛthvī Nārāyaṇa Śāha imported Gorkhālī political and social norms, which resulted in the co-existence of a dual set of legal practices: Gorkhālī and Newar. However, late post-unification bureaucracies faced a considerable number of administrative orders in the form of *lālamoharas, rukkās, sanadas, pūrjīs* and the like to implement, and in doing so they set out on a trajectory towards the unification of the country's legal systems. Since such documents are mostly royal orders having to do with economic activities, it is hard to undertake a comprehensive study of the law on homicide during that time. A more extensive document which delineates legal regulations of homicide during the post-unification period is the *Ainapustaka* (UjAin). Although the UjAin was an attempt to effect a small-scale reformation of the law, it features certain elements of a proper code, one that embodies both customary practices and innovative political thought. Many of the UjAin’s regulations had a direct

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\(^{50}\) A measure of time equal to twenty-four minutes, usually measured by floating a bowl with a hole on a bucket filled with water.


\(^{52}\) See Part I, 1.3.3.
influence on the MA. The drafter of the UjAin, Ujīra Siṃha, explicitly stated that he had observed the British court system (presumably that in practice in its Indian colony) before preparing his code-like text. Such attempts to recommend changes to legal practices by members of the aristocratic elite like Ujīra Siṃha contributed greatly to the development of the idea of codification. Among other things, they offered the rulers new insights into homicide law. The UjAin bears the following key features regarding homicide law and capital punishment.

Table 8 demonstrates that the section of the UjAin dealing with capital offences basically breaks down into 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 UjAin altered the ancient practice of exempting Brahmins and women from capital punishment. This shows that the dharmashastric ideas were not always perceived and interpreted from a shastric point of view but, were understood to depend also on the temperament and personal interests of rulers. The UjAin’s attitude towards executing Brahmins and women for murder seems to be, as stated by Ujīra Siṃha himself, influenced by the British legal system enforced in colonial Bengal and based on equality before the law. Although Ujīra Siṃha tried to continue the tradition of not killing Brahmins or women by reinterpreting shastric principles in his own way: Brahmins and women charged with homicide would not be sentenced to death per se but subjected to conditions that all but meant certain death. The first section of Article 5 reads:

Article five, first regulation: 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 means of a martial instrument. If a Brahmin and so forth or a woman has committed a [similarly] grievous sin, being convicted of murder by means of a martial weapon, and they must be executed, they shall be chained [and left to perish] or, if they have to be executed promptly, they shall be sent [to an area] where malaria is prevalent during the rainy

53 See above, Part I, 1.3.3.
54 The reference is to various subcategories of Brahmins and some sects of ascetics who may not be executed, such as a Jaisī Brahmins, Newar Brahmins or non-household ascetics.
Table 8: Types of capital punishment called for by the UjAin for murder and other offences

<table>
<thead>
<tr>
<th>Circumstances of crime</th>
<th>Caste / Gender</th>
<th>Capital punishment</th>
<th>Method of punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Committing gratuitous (UjAin/5 §1)</td>
<td>Brahmin</td>
<td>yes</td>
<td>(1.1) to be sentenced to death indirectly if authorities consider the crime to be of a heinous nature; either putting the offender in chains until his demise or else taking him somewhere where he dies as a result of disease or some other pernicious environmental influence.</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>(1.2) branding, caste degradation and chopping the nose off if authorities consider the murder not to be exceedingly heinous.</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>(1.3) decapitation or hanging</td>
</tr>
<tr>
<td>2. Murder committed out of spite, greed for property or sensual desire, or else in order to hide an earlier crime or to avoid paying a debt and the like (UjAin/5 §6)</td>
<td>Brahmin</td>
<td>yes</td>
<td>same as above (1.1)</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>same as above (1.2)</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>same as above (1.3)</td>
</tr>
<tr>
<td>3. Attempted murder, the victim surviving with or without having received help from others (UjAin/5 §7)</td>
<td>Brahmin</td>
<td>yes</td>
<td>same as above (1.1)</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>same as above (1.2)</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>same as above (1.3)</td>
</tr>
<tr>
<td>4. Participating in a failed murder plot, whether merely giving advice or actively planning, that targeted a ranking royal or political official (UjAin/5 §8)</td>
<td>Brahmin</td>
<td>yes</td>
<td>same as above (1.1)</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>same as above (1.2)</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>same as above (1.3)</td>
</tr>
</tbody>
</table>
### Table 8 (continued)

<table>
<thead>
<tr>
<th>Circumstances of crime</th>
<th>Caste / Gender</th>
<th>Capital punishment</th>
<th>Method of punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Participating in a failed murder plot, whether merely giving advice or actively planning, that targeted a subject of the realm (UjAin/5 § 9)</td>
<td>all</td>
<td>no</td>
<td>a fine of 50 rupees if the offender has property worth 100 rupees, or else half of his property</td>
</tr>
<tr>
<td>6. Forging an alliance with enemies during wartime (UjAin/5 § 2)</td>
<td>Brahmin</td>
<td>yes</td>
<td>same as above (1.1)</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>same as above (1.2)</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>to be cast into a deep pit, sprinkled with a handful of salt and buried under earth</td>
</tr>
<tr>
<td>7. Spying for the enemy during war (UjAin/5 § 3)</td>
<td>Brahmin</td>
<td>yes</td>
<td>same as above (1.1)</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>same as above (1.2)</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>to be disembowelled</td>
</tr>
<tr>
<td>8. Hiding letters received from the king addressed to the chief minister (UjAin/5 § 4)</td>
<td>Brahmin</td>
<td>yes</td>
<td>same as above (1.1)</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>same as above (1.2)</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>to be disembowelled</td>
</tr>
<tr>
<td>9. Aiding an enemy's army so as to enter one's own territory (UjAin/5 § 5)</td>
<td>Brahmin</td>
<td>yes</td>
<td>same as above (1.1)</td>
</tr>
<tr>
<td></td>
<td>woman</td>
<td>no</td>
<td>same as above (1.2)</td>
</tr>
<tr>
<td></td>
<td>others</td>
<td>yes</td>
<td>to be executed by using a pellet bow or stoning</td>
</tr>
</tbody>
</table>

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i It is worth noting here that only those who assist in murdering a royal or political authority are sentenced to death; if the victim is an ordinary person, the main culprit is put to death, but not any accomplices. This regulation reflects the chaotic political turmoil in Nepal characteristic of the first half of the nineteenth century, when there was a strong power struggle going on between the Thāpā and Basnyāta families.
season or to the northern borderland (Bhoṭa)\(^{55}\) during winter-time, and [authorities] shall keep them there until they die. If the punishment is the severing of genitals, the genitals of those who may be executed shall be severed. In the case of Brahmins and so forth who are [again] convicted of murder by means of a martial weapon, they shall be shaved and exiled from the country. Women have less intelligence and they are impetuous by reason of their excessive anger. They cannot evaluate the consequences of different courses of action. Therefore, when punishing women, either reduce their caste or exile them. If the offence they committed is [considerably] graver, cut off their nose and exile them.\(^{56}\)

This explicit deviation in the UjAin from both *dharmaśāstra* and customary practice—to my knowledge, the first such documented instance—likely is a result of the close encounter with the colonial

\(^{55}\) Lit. 'Tibet'. However, here it does not mean the main plateau of Tibet but rather any uninhabited snowy region along the Tibetan border.

\(^{56}\) pācau vandejako pahilo tajavij kasai (read: kasaile) jiu mārināyā takāṣra garyo uslāi namāri nisāpa parvāyā chaīna bhanyā hativāra calāi mārināyā jātalāi jhunādāi kāthiari yeka taraḥaṣāga usko jāina māridinu, hatiyāra calāi mārdā hattāyā lāγ̱ nāyā vrāhmaṇa gairaha jātale ra striharāle ṭhulo aparādha garyāko cha unlāi namāri hunyāchaīna bhanyā nelaimā gālun. athavā cādai māru parvryo bhanyā varśāaulāma hiudamā bheṭamā rāṣanu namarikanā naḥoḍanu. jāta anśāra nałphal kāṭanu bhanyānā kāṭinā ṭhulo nałphal kāṭanu, vrāhmaṇa gairaha hativāra calāyā hattāyā lāγ̱ nāyā jātalāi mudi des nikālā garidinu. svāsni- haruko akal kam huchha, ḍherai risa hunāle āti hunchan, yeso garyā yeso holā yeso garyā yeso holā bhani aghipahi ḍhera destainan. tasarthā svāsnilāi sāsanā gārdā jāta patita garidinu. athavā desa nikālā garidinu. ṭhulo aparādha cha bhanyā nāk kāṭi desa nikālā garidinu. (UjAin/5 §1).
administration after the ratification of the Sugauli Treaty in 1816. Henceforth the colonial power was allowed a permanent residency in the Kathmandu Valley in order to maintain close political ties with Nepal's government. Since criminal transactions between Nepalese and the East India Company controlled territories were a big problem of that time, the colonial administration negotiated with the Nepalese administration not to exempt anybody from the death sentence in cases of capital crimes irrespective of what Hindu legal scriptures state and what the customary practices were. This diplomatic communication resulted in a reciprocal treaty meant to be put into force between the East India Company and the Nepalese government in 1834 (VS 1891) to control cross-border crime, especially theft and robbery. The treatise explicitly mentions that irrespective of caste and gender status, the colonial administration not to exempt anybody from the death sentence in cases of capital crimes irrespective of what Hindu legal scriptures state and what the customary practices were. This diplomatic communication resulted in a reciprocal treaty meant to be put into force between the East India Company and the Nepalese government in 1834 (VS 1891) to control cross-border crime, especially theft and robbery. The treatise explicitly mentions that irrespective of caste and gender status, the colonial administration negotiated with the Nepalese administration not to exempt anybody from the death sentence in cases of capital crimes irrespective of what Hindu legal scriptures state and what the customary practices were. This diplomatic communication resulted in a reciprocal treaty meant to be put into force between the East India Company and the Nepalese government in 1834 (VS 1891) to control cross-border crime, especially theft and robbery.

57 See, for example, the letter written by the envoy Lokaramaṇa Upādhyāya to the Nepalese palace from Calcutta about tensions that arose between Nepal and the East India Company over cross-border crimes. The letter reads in part: ‘[…] when I (i.e., Lokaramaṇa Upādhyāya) met Captain Vaca Sāhaba (i.e., Captain F.W. Birch), the Superintendent of Calcutta Police, he told me in the course of conversation that ‘the relationship between Nepal and the Company State will certainly be spoilt. My platoon is in Banaras, and I have also been ordered to go there. At the time of deployment of the platoon, I too will join it, leaving this job.’ ‘We did not intend to make war. If the unique commitment (ahada paimāna) is spoiled from the Company’s side without any reason, we shall spoil it from our side too. Friendship will remain if it is maintained from both sides; it cannot be maintained only from one side.’ When I (i.e., Lokaramaṇa Upādhyāya) said this, Captain Birch replied jestingly that ‘there has been impropriety from your side. It is not the custom of the English to spoil [a relationship] first. Your troops came everywhere within the borders and robbed within the Company’s territories. Is this proper in friendship? There are several other matters, too. It seems that you have been informed of nothing, and you know nothing. Because of such mismanagement on the part of Hindustanis, we, having come from another place, took Hindustan,’ I (i.e., Lokaramaṇa Upādhyāya) replied to him that ‘actual information has [always] been arriving to me in writing. As opposed to your country, we do not have the custom of writing false [information] in our country […]’.” […] kalkattākā puliskā suparindanta kaptāna vaca sāhavasita bheta hudā vātacikā prasamgamā nepālasita sarkāra kampanikā avasya vigrancha mero paltan vanārasmā cha malāi pani jānu bhani hukum bhayāko cha paltan kuca hunyā tākamā ma pani mokāma chodi āphnā palttaṁā sāmela huna jālā bhanyā kurā garyā hāmrā ta laḍāiko mansuvā thierna kampanikā tarphavāṭa sānasā ahada paimāna chodi vigranchau bhanyikā velāmā hāmrā tarphavāṭa pani vigranai parlā saluki duvairavāṭa rāsyā nancha ekatirvāṭa rāṣi rahadaina bhani maile bhantā timiharukā tarphavāṭa acākli huncha hāmrā anrejako pailhe āphu vigravā nastura hoina jahā tāhā sivānāmā las-kara āi hāmrā kampanikā jagāṁa liapita garera laigya dostimā vasto cāhinyā ho kyā tava aru pani dherai kurā cha tinilai kehi leṣi avado rahenacha timi kehi thāhā pāudā rahenachau hindusthānikā estai veuvamodavatā hunāle hāmile arkā velāvāṭa āi hindusthāniko velāet lihyu bhani ṭhaftā garyā jhai gari kurā garyā bhayāko vistāra malāi lekhi āudaicha nabhayāko timiharukāhāko jasto phaiki hāmrā mulukamā leṣanyā nastura chaīna bhani maile javāva diñā. (NGMPP DNA 1/68).
anybody who commits an act of cross-border robbery is to be sentenced to death by the legal authority where the crime took place.\textsuperscript{58} Such standpoints insisted upon by the colonial administration helped not only to ensure smooth diplomatic relations regardless of what the dharmaśāstras and customary practice enjoined but also to somewhat stabilize Nepal's chaotic political situation under successive rulers. It is likely, for instance, that the idea of putting Brahmins to death floated in the UjAin and concretized in the treaty must have given pause to Brahmins among the power elite who might have otherwise considered engaging in subversive acts.

The above passage shows the growing awareness of the need for proper homicide laws during post-unification Nepal. These regulations put forward by Ujīra Siṃha represent a comparatively detailed approach to homicide. They deal not only with murder committed by a single person but also attempted murder and murder committed collaboratively by multiple persons. The seventh and eighth sections of Article 5 state:

If someone plans and attempts for no reason (nāhaka) to kill a person in one of the ways [mentioned before,]\textsuperscript{59} the [intended victim] having not died [only] because he received some sort of help, then even so the offender shall, depending on his caste status, be executed because he dared for no reason to make a plan and attempted to kill [the victim,] and would have killed him had he been able to do so. The victim was able to survive by divine intervention; still, the life of him shall be taken who for no reason practised treachery against another's life.\textsuperscript{60}

Even if someone low in rank (choṭā ādamī), having intended to take revenge on a high-ranking person who has received his post either as a royal appointment etc. or as a stroke of luck, does not carry out [the deed] but participated in a plot to take revenge or

\textsuperscript{58} See NGMPP DNA 4/100 below, Part II: C, Document 1.
\textsuperscript{59} See UjAin/5 § 6.
\textsuperscript{60} pācau vandejako sātau tajavī. yeṣṭā nānā trahale (read: tarahale) nāhakmā arkāko jiu mārnyālāi matalap gari puryāyo arū kehi taraḥako sahāya mīyo guhārī payā (read: pāyo) ra usko jiu marenā bhanyā pani nāhākmā arkāko jiu mārna āṭi kāmako matalap puryāunyālāi usle sākyā mārnyai thiyo daiva samhāya bhai usko jiu vācyo tāpani nāhākmā arkāko jiu dagā garnyāko jivai jāncha. jāta viśeṣa māridinu. (UjAin/5 § 7).
merely provided his advice, he shall—depending on his caste status—be executed.61

In addition to the above documents, B.H. Hodgson’s memoranda of the Jail delivers of prisoners during the Dasain festival found in the Indian Office Library62 are key documents relating to homicide law and criminal jurisprudence of the pre-MA period, as are his works and miscellaneous essays.63 According to him, homicide law fell strictly under the jurisdiction of the central courts of justice, namely: the Koṭilīṅga, Itācapalī, Ṭaksāra and Dhanasāra.64 As soon as a local judicial body received information regarding a homicide, the informant was interrogated in order to establish a corpus delicti. If the informant’s evidence turned out to be false, he would be punished for giving false information. Otherwise, the court’s soldiers were immediately deployed to secure the site and prevent the murderer from escaping. The most reliable, and indeed mandatory, evidence in order to make possible a court decision regarding a murder trial was the murderer’s written confession. It was mandatory to obtain a written and attested confession from the murderer before sentencing him. In order to get it, convicts might be scolded, beaten or otherwise terrorised. The MA displays the same pre-MA attitude toward the need for a written confession before a court handed down its decision.65 On the other hand, it strictly forbids confessions to be obtained by force, and imposes fines on non-compliant officials—greater or less depending on the severity of crime brought before the court.66 After a murder confession is obtained, the verdict is announced and forwarded to the Council for its assessment and final approval. Adding his own to the Council’s assessment, the prime minister then referred the matter to the king. Once sanctioned

61 pācau vandejakō āṭhau tajavīja rājakāja prabhrtile bhayo athavā āphnā naśīvakā jorale bhayo bhayākā yestā vudā ādamikā dagā nimityā chotā ādāmile āphule mārana jiu mārnāko matalap gari puryāyena ta ni dagā garyā kurā kāna ta pasnyā ra sallāha dinyaṁātra rahecha bhanyā pani jāta ansāra jiu māridinu. (UjAin/5 § 8).

62 See Adam 1950.
64 See Hodgson 1880 (vol. 2): 212.
66 “If [authorities] without having obtained [any concrete evidence] obtain a confession [from a defendant] by beating him regarding a capital crime but later [the crime] is not verified, the chief [officer] shall be fined 360 rupees […].” jyā jānyā satātmā (read: khatmā) dasi sasalasā napāi kutpīt gai kāyelanāmā leśayo pachi thaharena bhanyā testā hākimalāi 360 rūpaiyā daṃḍa garnu […]. (MA-ED2/37 § 1).
by the king, a ḍiṭṭhā was ordered to carry out the punishment. Mur-
derers were always punished corporally. If they were not Brahmins,
women or certain types of ascetics, they were taken to the banks of
the Viṣṇumati River and either decapitated or hanged in public at the
hands of a Podhyā, a member of one of the Untouchable castes. There
was no provision for having personal lawyers defend the accused.

Broadly speaking, the following categories of homicide can be
sketched in the pre-MA period: lawful killing (killing in self-defence,⁶⁷
killing a paramour of one’s wife and killing in order to save a cow’s
life), murder (by a single person or by a group of people), attempted
murder and assisting a murderer.⁶⁸

2.2 Regulations Relating to Homicide in the MA

2.2.1 The Structure of Articles on Homicide

The Article of MA 1854 on homicide is laid out under three rubrics:
1. taking up murder weapons, 2. types of murder and 3. unintentional
homicide. The revision of it that resulted in MA 1870 affected both the
linguistic component and the content: the complex language structure
of the 1854 version was markedly simplified, with many small sections
supplanting the more ceremonial prolixity of the earlier paragraphs.⁶⁹
What were considered unnecessary provisions were deleted, and long
sections rephrased. In the Article ‘On Homicide’, for example, MA 1870
groups 160 sections under four headings and 13 subheadings, in contrast
to MA 1854’s three headings, 20 subheadings. The latter thus tends to
treat multiple topics under single sections. I shall first present the con-
trasting headings of the Article ‘On Homicide’ from the both Ains.

MA 1854

1. Taking up murder weapons (MA-ED2 1854/63 §§1–6)
2. [First- and second-degree] murder [and miscellaneous topics]
   2.1 Killing by privileged groups §§1–4
   2.2 Killing by a mute or dull person §5

⁶⁷ See HMG. Pokā no. 16, quoted in Vaidya & Manandhar 1985: 145.
⁶⁸ See UjAin/5.
⁶⁹ See MA 1870/4, 18, 5 and 161.
2.3 Killing by women §§6–7
2.4 Jointly executed murder §§8–10
2.5 Self-defence §§11–12
2.6 Bodily harm with lethal consequences §§13–16
2.7 Killing while being arrested §§17–19
2.8 Extradition §20
2.9 Failure to provide assistance §21
2.10 Exceptions to homicide law and failure to report a homicide §22
2.11 False accusations §23
2.11.1 False accusations §40
2.11.2 False accusations in doubtful cases §33
2.12 Assault on security personnel §24
2.13 Permitting or facilitating an escape §25
2.14 An attack on a security post §§26–27
2.15 Attempted homicide §§28–29
2.16 Regulations regarding capital punishment §30
2.17 Bodily harm without lethal consequences §§31–32
2.18 Killing under the influence of drugs §34
2.19 Killing by a person of unsound mind §§35–36
2.20 [Killing of a weak or wounded person] §§37–39
3. Accidental homicides (MA-ED2 1854/65 §§1–19)

MA 1870

1. Assaulting a sentry (§§1–4)
2. The law imposed in cases of manslaughter and unintentional injury (§§1–18)
3. Being held captive and having food and water withheld (§§1–5)
4. Homicides
   4.1 The law pertaining to cases when a weapon is unsheathed or when a weapon causes injury (§§1–8)
   4.2 The law pertaining to punishment when a single person intentionally kills a human (§§9–17)
   4.3 The law pertaining to cases of conspiracy to murder (§§18–43)
   4.4 The law pertaining to punishment for physical injury caused by a single person acting with the intention to kill (§§44–48)

70 Note that the sub-sections 4.8 to 4.13 are newly introduced in the MA of 1870 thus, they are not in the MA of 1854.
4.5 The law pertaining to punishment for conspiracy to kill resulting in permanent incapacitation (§§ 49–66)

4.6 The law pertaining to punishment in cases where a single person, [in attacking someone else] with the intention to kill, causes no bodily injury and the person survives by chance or through help received from others (§§ 67–70)

4.7 The law pertaining to punishment in cases where a multiple number of persons who conspire to attack someone with the intention to kill do not cause injury and that person survives, whether by chance or through help received from others (§§ 71–78)

4.8 The law pertaining to punishment when a single person with murderous intent injures another person (§§ 79–83)

4.9 The law pertaining to punishment for a murder planned jointly by a group of people that results in the victim being injured (§§ 84–101)

4.10 The law pertaining to punishment when a single person intentionally strikes at a person but misses the intended victim (§§ 102–105)

4.11 The law pertaining to punishment when a group of people intentionally strikes at a person but miss the intended victim (§§ 106–143)

4.12 The law pertaining to punishment for the crime of striking someone with the intention to kill (§§ 144–146)

4.13 The law pertaining to execution, branding and other forms of punishment for the crime of homicide (§§ 147–160)

2.2.2 Basic Categories

Accidental homicide

The MA terms one category of homicide bhormā jyāna mārnu ([killing by] mistake) or bhavitavya hatyā (accidental [killing]), that is, death inflicted indeliberately. The MA makes a clear distinction depending on whether a killing takes place intentionally or not. For example, in most sections of the Ain the phrase māraum bhani (with the intention to kill) is used to define unlawful homicide. The following are the categories recognized as constituting accidental homicide by the MA.
a) Beating a person with hand-blow
This is one of the new criteria introduced into the MA to differentiate premeditated murder and accidental murder.\(^{71}\) According to this distinction, if somebody above the age of twelve dies as a result of one or two fisticuffs to the back or a cheek but not to sensitive body parts, it is taken as an accidental occurrence. However, if under the same circumstances the victim is less than twelve years, it will be considered a murder, and the offender is punished by death.\(^{72}\)

b) Setting traps
Setting defensive traps
The MA recognized the death of someone who dies upon falling into trap set up in or around a redoubt, path, fortress or fort closed down earlier by royal decree as accidental murder.\(^{73}\)

Setting animal traps
To set a trap under specified circumstances is allowed by the MA. The death of someone who dies after falling into a trap set with conventional methods for purposes of hunting is defined as an accidental homicide. For example, if in response to a tiger, bear or the like having killed a human, somebody sets a trap, and a person who has been notified in advance falls into it, this is taken as an accidental homicide.\(^{74}\) Even if somebody dies after falling into a trap set for any purpose other than that of killing, the MA does not recognize it as a murder. Instead, it is taken as a minor unintentional crime. Thus, the punishments take only the form of fines, compensation for the deceased's funerary rites or a *pretium doloris*.\(^{75}\)

c) Unintentional manslaughter
The MA considers obvious human error which results in death as a mishap and therefore unpunishable. For example, if somebody during the night strikes at what he misperceives as an animal or the like and a human dies in that attack, the act is recognized as a mishap. However, there is an ancillary condition that the slayer and the deceased should have harboured no mutual malice or engaged in any dispute concerning

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72 See MA-ED2/64 §1.
73 See MA-ED2/77 §6.
74 See MA-ED2/77 §5.
75 See MA-ED2/77 §§1–4.
any matter before.\textsuperscript{76} Similarly, if a human dies in a shooting at the hands of someone hunting in a jungle targeting what he takes to be a deer or other animal, this too is treated as death caused by human error.\textsuperscript{77}

d) Death caused by accident
This is also one of the categories of accidental homicide, which happens during unexpected accidents caused by humans while engaging in daily activities. The person who caused the death is not subject to punishment as long as he and the deceased harboured no mutual malice beforehand. The MA mentions a number of typical situations: (i) An arrow or bullet goes astray when discharged because of breakage, slippage or other loss of control; (ii) Similarly in the case of slippage of an axe or the like from its wielder’s hand while cutting down a tree or the like; (iii) Other such accidents: wood being dragged, a field being ploughed, or a path, water channel or temple being constructed; (iv) Men, women or children, when being led across a river or ford, are swept away and drown, having slipped loose from the grip of the person leading them across;\textsuperscript{78} or (v) Open agricultural burning gets out of control.\textsuperscript{79}

e) Death during interrogation
The MA provides the right to government interrogators to use mild force if permitted by the prime minister during the process of interrogation. If the use of such force under restricted circumstances lead to the death of an accused person, this is counted as an accidental homicide. This issue is dealt with in Sections 1 and 2 of the Article ‘On Theft.’\textsuperscript{80} If someone has stolen four or five different objects but confesses to having stolen only one of them, interrogators are allowed to flog the accused. If by chance he dies, this is taken as a mishap. Similarly, if someone who is charged with murder or theft is detained on the strength of solid evidence and interrogated by forcible means, the interrogators are not held accountable if the accused dies.

f) The death of captives
The MA of 1870 introduces a new category of homicide, namely the death of a captive. The code allows holding somebody captive only on

\textsuperscript{76} See MA-ED2/65 § 2.
\textsuperscript{77} See MA-ED2/65 § 4.
\textsuperscript{78} See MA-ED2/65 § 3 and §§ 5–10.
\textsuperscript{79} See MA-ED2/65 § 12.
\textsuperscript{80} See MA-ED2/68 §§ 1–2.
condition that he is provided food and drink, and only over a dispute involving a commercial transaction, a debt or credit or the like. If the person who has taken the other captive provides food and water but the latter does not eat and drink what is offered, and then dies in a fearful state of mind, this is taken as a mishap and thus unpunishable.  

Lawful homicide

The MA uses the expression *khata bāta lägadaina* (no blame shall be assigned) to indicate lawful homicide. Homicides committed under the following circumstances are defined as lawful in the MA. Although the MA dedicates a separate chapter to accidental murder, several other references relating to the same issue are observed elsewhere too in the MA.

a) Killing to protect the sovereignty of the kingdom

To ensure a system of checks and balances between the monarchy and the executive head of the country, namely the prime minister, while safeguarding the country’s autonomy and the king’s throne, the MA grants the king a unique legal prerogative to authorize the execution of the prime minister. This provision applies only under specific circumstances where the prime minister is found to be involved in plotting to usurp the throne, attempting to assassinate the reigning monarch and queen, or intending to surrender the kingdom’s sovereignty to rulers from the southern or northern regions.

b) Killing in self-defence

The basic value of human life is enshrined in the MA. He who has been attacked and injured by someone else is granted the right to defend himself, even if that results in killing the attacker. Such killing is not a murder, nor is it punishable. Especially interesting in this case is that the caste status of the attacker is irrelevant. Although the MA strictly forbids the killing of Brahmins and woman at any cost, the ban breaks down in the case of self-defence:

If anybody from any caste including an Upādhyāya Brahmin, with the intention of killing, wields a weapon against some person

81 See MA 1870, p. 83 §2.
82 See MA-ED1/1 §§ 31–33.
83 See MA-ED2/64 §1.
who has done nothing wrong, and wounds, and if he who has been wounded shall strike the attacker and kill him—irrespective of whether the attacker is an Upādhyāya Brahmin or from any other caste—then [the slayer's] life shall not be taken, nor is he assigned any blame.  

Women are granted the right to kill in order to defend themselves against sexual assault. They are allowed to kill the assaulter by any means wherever he is found within forty-eight minutes after the assault. The text reads:

If a man from any of Four Varnas and Thirty-six Jātas including Sacred Thread-wearers forces sexual intercourse upon an unmarried girl, somebody's wife or a widow—irrespective of whether she is from a caste higher than his, equivalent to his or lower than his—and she kills him during the time he is assaulting her or within 2 ghādis afterwards, be it by striking him with a weapon such as a cane or stone, making him fall off a cliff, making him be swept away in a river or by strangling him, she shall be assigned no blame for having killed an assaulter during that time. She shall be made to obtain ritual expiation for taking a life and be let off.

Again, then, whoever sexually assaults a woman can be killed in self-defence irrespective of his caste status or his family relation to the woman.

c) Killing while protecting private property

For a property owner to kill a thief at the site and in the course of a theft in order to protect private property is considered to be a lawful
homicide in the following situations: If the thief has been already convicted once or twice of thievery, and he again comes to steal at the same place and the owner of the property is unable to fight against him;\textsuperscript{86} Or if thieves come in a group and break down a house wall or they come with weapons.\textsuperscript{87} Similarly, if the owner is not able to resist the thieves or robbers by other means.\textsuperscript{88} Further, for a person to kill a friend who had been a travelling companion in a foreign land and who had tried to kill him is lawful if it is proved through the interrogation that both had previously harboured no mutual malice and the deceased had been convicted of thievery once or twice before.\textsuperscript{89}

d) Killing by sentry
A sentry who is stationed by royal decree or through some other authorized order is allowed to kill anyone who threatens him with a rifle or other weapon while being stopped and told not to enter into a restricted area.

e) Killing a witch
Killing a witch who had failed trial by ordeal undergone of her own free will is lawful. By contrast, since forcing trial by ordeal is forbidden in the MA, killing on the basis of it is unlawful.\textsuperscript{90}

\textit{Killing during elephant or horse riding}

An incident resulting in the death of an individual during a formal or informal ride on an elephant or a horse is considered accidental if the rider is unable to control the animal despite their attempts to do so. For instance, if a mahout fails to control an elephant because it is afraid of something or the animal being in a state of mating aggression (\textit{matta}), resulting in the death of someone, it is regarded as an unfortunate occurrence.\textsuperscript{91} Likewise, if a horse-drawn cart inadvertently runs over and causes the death of a person, it is also classified as an accident.\textsuperscript{92}

\textsuperscript{86} See MA-ED2/68 § 5.
\textsuperscript{87} See MA-ED2/68 § 6.
\textsuperscript{88} See MA-ED2/68 § 10.
\textsuperscript{89} See MA-ED2/68 § 22.
\textsuperscript{90} See MA-ED2/64 § 27.
\textsuperscript{91} See MA-ED2/72 §§ 1–2.
\textsuperscript{92} See MA-ED2/72 § 8.
Excusable homicide

a) Homicide committed by a minor

The MA does not define the age limit of minors in a consistent fashion. The age of full legal responsibility depends on various circumstances. For example, a person below the age of sixteen is recognized as a minor if the matter in question is trade and monetary transactions. Any such transaction made with a person below the age of sixteen is considered invalid. When it comes to bodily impurity regarding food, anyone below the age of twelve is defined as a minor. When adultery within Sacred Thread-wearing castes is at issue, a male below the age of eleven and a female below the age of ten are defined as minors. In the case of homicide, finally, the MA defines anybody who is below the age of twelve as a minor. If a minor commits homicide, he is to be imprisoned for a month, undertake expiation and then set free. The respective section reads:

If a child below the age of 12 commits a crime involving bodily harm, from something minor [to] taking a life, they shall be assigned no blame. If someone is killed by [a child], the latter shall be calmly interrogated [in front of] five notable persons from an adālata, ṭhānā or amālā. The child shall not be scolded. If the child says that somebody else ordered him to commit the act and he did so, [the authorities] shall investigate whether the deceased and the one who instructed [the child to kill] harboured any grudges over something. If while conducting the investigation it is determined that the instruction [to kill] was truly [given] and a confession is given, the confession shall be written down and he who instructed [the child] to kill shall be executed. The child who committed the murder shall be imprisoned for 1 month and let go after making him undergo expiation.

93 See MA-ED2/92 § 2.
94 See MA-ED2/92 § 6.
95 12 vaṛṣadesi udhokā válaśale sānātinā kurādesi jyāna māryā jyānako taksira garyā tīnlāi satavāta lāgdaina. jyā māryāko rahecha bhanyā teslāi adālata ṭhānā amālakā paṃca bhalaṁ rāṣi phulyāikana sodhapucha garnu. nahavakāunu. arkāle arhāyothyo ra maitre garyāko ho bhanyo bhanyā mārna sikāunyā māni-skro ra marināyako aghi pachiko kehi kurāko ivi paryāko rahecha ki rahecha tahakikāta gari ṭhharāudda ahrāyako sācicā ṭhaharyo sikāunyā käyela bhayo bhanyā käyelānāmā leśāi sikāi marāunyā cāhiko jyāna linu. mārnyā keṭa keṭilai l mainhā kaida gari prāyaścitta dilāi chāḍidinu. (MA-ED2/92 § 2).
2.2 Regulations Relating to Homicide in the MA — 133

**Attempted homicide**

Attempted murder is punished in the same way as murder. Table 9 lists the conditions and outcomes.

**Table 9: Regulations relating to attempted homicide**

<table>
<thead>
<tr>
<th>Conditions constitutive of attempted murder</th>
<th>Offenders</th>
<th>Punishments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attempting to cut a person’s throat, stab or strike him, crush him under a log or rock, strangle him or gag him while awake or asleep, with the intention to kill</td>
<td>those who may not be executed</td>
<td>branding and confiscation</td>
</tr>
<tr>
<td></td>
<td>women</td>
<td>branding</td>
</tr>
<tr>
<td></td>
<td>those who may be executed</td>
<td>capital punishment</td>
</tr>
<tr>
<td>Capturing or holding a person captive without authorization and with the intention to kill</td>
<td>those who may not be executed</td>
<td>branding and confiscation</td>
</tr>
<tr>
<td></td>
<td>women</td>
<td>branding</td>
</tr>
<tr>
<td></td>
<td>those who may be executed</td>
<td>capital punishment</td>
</tr>
<tr>
<td>The punishment for attempted murder is comparatively severer if the victim is a member of a security force.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assaulting a sentry with a weapon such as a bow and arrow, even if the victim is only slightly wounded</td>
<td>those who may be executed</td>
<td>capital punishment</td>
</tr>
<tr>
<td></td>
<td>Women/ones who may not be executed</td>
<td>branding</td>
</tr>
</tbody>
</table>

**Unlawful homicide**

The term the MA uses to denote unlawful homicide is *jyānamārā* (lit. killer of life). As pointed out by R. B. Pradhananga, modern law relating to homicide in Nepal has kept this term to denote serious types of murder. The MA defines any unauthorized killing of—or the attempt to kill—one person, and with the specific intention to do so, out of greed for property, envy or the like, as unlawful homicide. The punishment for

96 See Pradhananga 2001: 10.
committing unlawful homicide is death and the confiscation of property if the culprit is a man from a caste that may be executed, branding and confiscation if the culprit is a man from a caste that may not be executed, and branding and banishment if the culprit is a woman.

The MA categorises the following types of killings as unlawful homicide:

a) Murder (*jyāna mārnu*)
Murder is defined in the MA as the killing of one person by another person with the intent to do so, out of greed for property, envy or the like. The MA enumerates some examples to show how murder may take place, such as cutting the throat, stabbing, striking, pressing under a log or rock (*ḍhuṅgo*), strangling, gagging, administering poison, causing the victim to fall to his death or be swept away by a river, or hanging. 97

The MA 1854 distinguishes the following types of specific individual offenders in a killing carried out by a single person:

— Murder committed by someone who is mute or dull but who is clever enough to know what should and should not be done § 5
— Murder committed by someone who is mute or dull but who is not clever enough to know what should and should not be done § 5
— Murder committed by an insane individual §36
— In particular, murder committed by an insane individual who knows what should and should not be done and what should and should not be avoided, who does not eat inedible food and who does not wander aimlessly around §36
— Murder caused by biting § 13

b) Group murder
In a murder committed by a multiple number of persons, the different types of offences are categorized into: (i) catching, (ii) dealing the fatal blow, (iii) commanding (ordering to kill), (iv) acting as barrier (helping by barring the victim's path) and (v) onlooking (bystanders to a murder who are larger in number than the murderers but do not try to save the victim).

Furthermore, different types of facilitators are distinguished:

— Those who plot a homicide §§ 9–10
— Those who hide a murderer §22
— Those who help a murderer or thief to escape § 25

97 See MA-ED2/64 §12.
2.2 Regulations Relating to Homicide in the MA — 135

Table 10 summarises the punishments for killing someone intentionally out of greed for property or for some other base motivation, whether during the day or night and by any of a host of means (assaulting and stabbing with a weapon, administering poison or the like).

Table 10: Regulation on killing by a multiple number of persons

<table>
<thead>
<tr>
<th>Nature of participation in the crime</th>
<th>Punishment for men</th>
<th>Punishment for women</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The following persons who facilitate a murder:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Those who order the killing</td>
<td>death if he may be executed; confiscation and branding, if not executed</td>
<td>branding</td>
</tr>
<tr>
<td>(b) Those who help to kill or abduct</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Those who strike or push the victim</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Those who are in on the planning of the murder, and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) Those who provide a weapon</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Those who patrol the streets and block access to the site to facilitate the killing</td>
<td>confiscation and branding</td>
<td>imprisonment for 12 years</td>
</tr>
<tr>
<td>3. Those who participate in the plot and go to the site but do not use weapons or block (or patrol) access</td>
<td>confiscation and imprisonment for 12 years</td>
<td>imprisonment for 6 years</td>
</tr>
<tr>
<td>4. Those who participate in the plot but do not go to the site of killing</td>
<td>confiscation and imprisonment for 6 years</td>
<td>imprisonment for 3 years</td>
</tr>
</tbody>
</table>

c) Killing of a minor below 12
It is a notable feature of the MA that it explicitly safeguards minors who are under their age of twelve. No assault is tolerated against them under any circumstances. If a child dies even from one or two light blows of the hand to sensitive body parts, that is treated as unlawful homicide—irrespective of whether the intention was to kill or not.98

d) Killing during robbery
Homicide committed during an act of robbery is unlawful. If a person is killed by robbers wielding weapons or by any other means during the robbery, up to five types of participants—those who block the street to prevent the victim's escape, those who hold the victim captive, those who strike him, those who order him to be struck, and those

98 See MA-ED2/65 §1.
who provide weapons—are liable to conviction for having committed unlawful homicide.99

e) Killing of authorised personnel on sentry duty
Killing an authorised sentry while on duty is unlawful. Even attempting to kill one with a weapon is treated as if it were a murder. If someone opens fire with a rifle, shoots an arrow or discharges any other weapon which injures a sentry at a government post or treasury; a guard at any other place who stands watch by government order; a guard watching over money, immovable property, cattle or a person; or a member of a night patrol—irrespective of whether the victim dies or not—the wielder of the weapon is charged with murder.

f) Causing a person’s death by a snake or dog bite
MA 1870 introduces a category of unlawful homicide not dealt with in the first version of the code. It states that if anyone intentionally kills a fellow human by causing him to be bitten by a snake or dog, he is guilty of murder and will be punished under the sections of the code governing unlawful homicide.100

g) Causing injury resulting in death
The MA defines intentional acts of injury that lead to death within specified timeframes as murder. The following table presents a summary of the corresponding time periods. For instance, if an individual inflicts harm upon another, resulting in death within seven days, the most severe punishment will be applied based on that duration. However, if the death occurs after that timeframe, it may be considered a natural death (Table 11).

Caste, group, gender and punishments

The MA classifies offenders into one of two categories: kāṭinyā jāta and nakāṭinyā jāta (those who may be executed and those who may not be executed). Brahmins, the king, certain groups of ascetics, women and persons of unsound mind fall under the first category. The general relevance of caste when meting out punishment for homicide is spelled out in Table 12.

99 See MA-ED2/68 § 52.
100 See MA 1870, p. 94 §§ 40–41.
### Table 11: Regulations governing bodily injury resulting in death

<table>
<thead>
<tr>
<th>Condition</th>
<th>Time period</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injuring a person by hitting him with a stick or stone</td>
<td>the victim dies from (various diseases, such as) diarrhoea, smallpox, remittent fever, by drowning or from having been bitten by someone</td>
<td>a fine according to the ‘brawling’ category of offences</td>
</tr>
<tr>
<td>Striking or other form of assault</td>
<td>the victim dies within 22 days</td>
<td>death</td>
</tr>
<tr>
<td></td>
<td>the victim dies after 22 days</td>
<td>a fine of 60 rupees</td>
</tr>
<tr>
<td>Slapping a person on the cheek or hitting a sensitive part of the body</td>
<td>the victim cannot move and dies within 7 days</td>
<td>death</td>
</tr>
<tr>
<td></td>
<td>the victim dies after 7 days</td>
<td>a fine according to the ‘brawling’ category</td>
</tr>
<tr>
<td></td>
<td>the victim starts walking and moving after one or two days after the assault but dies within 7 days</td>
<td>a fine according to the ‘brawling’ category</td>
</tr>
</tbody>
</table>

### Table 12: Regulations governing punishment based on caste, group and gender

<table>
<thead>
<tr>
<th>Punishment</th>
<th>Not applicable to</th>
<th>Applicable to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death</td>
<td>rank-wise: king</td>
<td>the rest, and also to Brahmins if charged with killing the king</td>
</tr>
<tr>
<td></td>
<td>caste-wise: all categories of Brahmins</td>
<td></td>
</tr>
<tr>
<td></td>
<td>group-wise: certain ascetics&lt;sup&gt;i&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>gender-wise: women</td>
<td></td>
</tr>
<tr>
<td></td>
<td>health-wise: insane or dull persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>age-wise: anyone below the age of 12</td>
<td></td>
</tr>
<tr>
<td>Confiscation</td>
<td>rank-wise: king</td>
<td>the rest</td>
</tr>
<tr>
<td></td>
<td>gender-wise: women</td>
<td></td>
</tr>
<tr>
<td></td>
<td>group-wise: slaves</td>
<td></td>
</tr>
<tr>
<td>Branding</td>
<td>applicable to all</td>
<td>all</td>
</tr>
<tr>
<td>Imprisonment</td>
<td>applicable to all</td>
<td>all</td>
</tr>
</tbody>
</table>

<sup>i</sup> This is dealt with below; see Part II: B.
The exceptions to carrying out capital punishment in consideration of caste, gender or social group are laid out in Table 13: kings, Brahmins, ascetics, and women may not in general be executed but are to be branded. The branding takes a very specific form: The offender's left cheek is branded with the mark dāmala/ḍāmala\textsuperscript{101} marking him out as a prisoner for life. This seems to have been adopted from the dharmashastric practice. For example, the NyāV states: “[In the case of crimes punishable by branding,] one should shave the culprit's head, imprint a mark of the crime on his forehead, take him around on a donkey and exile him from the city.”\textsuperscript{102} Instead of exile, the MA institutionalises imprisonment for life. While branding spares the life of the guilty party, it amounts in fact to social death and the need to wage a constant struggle to stay alive.\textsuperscript{103}

\textsuperscript{101} The term dāmala, originating from the Arabic word dāyamulahabsa and derived from the root verb ḍāmn\textsuperscript{a}, meaning ‘to brand,’ represents a form of punishment employed as an alternative to capital punishment for individuals ineligible for a death sentence. Specifically, this punishment is applied to certain groups of offenders who cannot be sentenced to death, such as Brahmins, specific groups of ascetics, or women (MA-ED2/64 § 1, § 3 and § 5). The branding mark, dāmala or dāmala, is marked on the left cheek or forehead of the offender. In cases involving offenses related to sexual impurity, the initial letter of the caste name may be employed instead of the dāmala mark (MA-ED2/42 § 2, Vaidya & Manandhar 1985: 20). Furthermore, the offender receives a life imprisonment sentence. Despite the absence of physical execution, the dāmala punishment is regarded as tantamount to death due to its profound social and moral consequences. Those branded with the dāmala mark are deemed socially and morally deceased (Khatiwoda, Cubelic & Michaels 2021: 40). Additionally, Rāma Śāha’s edict (RŚEdict 15) explicitly affirms that branding punishment bears similarity to a death sentence by virtue of the loss of social status.

\textsuperscript{102} śiraso muṇḍanaṃ daṃṇḍas(!) tasya nirvāsanam purā. lalāṭo(!) vābhīṣastānāḥ(!) paryāṇa gardabhena ca. (NyāV, p. 227; see the parallel in NārSm 14.9).

\textsuperscript{103} The edict of Rāma Śāha (RŚEdict 15) explicitly states that punishment by branding is similar to a death sentence in virtue of the loss of social status.
2.2 Regulations Relating to Homicide in the MA — 139

No reason is given in MA 1854 as to why Brahmins are not to be put to death. The 1870 MA, however, provides the reason: brahmahatyā, the killing of a Brahmin, is considered as a grievous sin.\(^i\)

<table>
<thead>
<tr>
<th>Offender</th>
<th>Punishment</th>
<th>Parallels</th>
<th>Differences in MA 1870</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brahmins of all categories §1</td>
<td>confiscation and branding with lifetime imprisonment</td>
<td>GDhS 21.1–3, M Dh 11.55–59</td>
<td>none</td>
</tr>
<tr>
<td></td>
<td></td>
<td>RŚEdict 15</td>
<td></td>
</tr>
<tr>
<td>Ascetics among Upādhyāya Brahmins, Jaisī Brahmins or Rājapūtas; someone whose maternal descent is untraceable and who has become an ascetic; children born to a Daśanāmā ascetic, a Jogī, a Jaṅgama ascetic or Sebaḍā ascetic and a concubine Brahmin widow of an Upādhyāya Brahmin or Jaisī Brahmin who has not had illicit sexual intercourse; and a Ramātā ascetic, Phakira or Kānacirā/Kānapattā ascetic whose father and maternal descent is untraceable §3</td>
<td>confiscation and branding with lifetime imprisonment</td>
<td>RŚEdict 15</td>
<td>only non-house-holder ascetics are exempted from capital punishment</td>
</tr>
<tr>
<td>Females above the age of 11</td>
<td>branding with lifetime imprisonment</td>
<td>RŚEdict 15</td>
<td>none</td>
</tr>
<tr>
<td>A woman (for killing her husband or her own children)</td>
<td>branding and lifetime imprisonment in the special prison called the Golagharra with hands and feet fettered</td>
<td>NyāV, p. 189</td>
<td></td>
</tr>
</tbody>
</table>

\(^i\) See MA 1870, p. 125 §147.
Gender-specific regulations: More lenient punishment for women

Also shown in the table above, women may not be executed. Other forms of punishment are also less severe for women than what men could look forward to for the same crimes. The following table compares the punishments imposed on women and men for the certain crimes.

Table 14: Gender-specific regulations: More lenient punishment for women

<table>
<thead>
<tr>
<th>Nature of the crime</th>
<th>Punishment for a woman</th>
<th>Punishment for a man</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>branding and imprisonment</td>
<td>death sentence if he may be executed; if not, branding, confiscation and imprisonment</td>
</tr>
<tr>
<td>Murder of one's own children or husband</td>
<td>branding and imprisonment</td>
<td>imprisonment</td>
</tr>
<tr>
<td>Facilitating a murder:</td>
<td>branding</td>
<td>death sentence if he may be executed; if not, branding, confiscation and imprisonment</td>
</tr>
<tr>
<td>(i) giving the order to kill, seizing the victim to be murdered, striking and pushing the victim, planning the murder, giving the order to kill, and providing the weapon</td>
<td>imprisonment for 12 years</td>
<td>branding and confiscation</td>
</tr>
<tr>
<td>(ii) guarding the street to prevent the victim's escape or surrounding the site to keep others out</td>
<td>imprisonment for 6 years</td>
<td>confiscation and imprisonment for 12 years</td>
</tr>
<tr>
<td>(iii) participating in the plot and going to the site of murder but not using a weapon, not blocking the site and not seizing the victim</td>
<td>imprisonment for 3 years</td>
<td>confiscation and imprisonment for 6 years</td>
</tr>
</tbody>
</table>

Note: A woman could buy her way out of prison by paying a fine, but a man sentenced to death could not do so.
2.2 Regulations Relating to Homicide in the MA — 141

**Homicide with diminished responsibility**

The MA deals with offenders of unsound mind separately. Those judged to fall under this category were held accountable but with diminished responsibility.

*Table 15: Regulations relating to diminished responsibility for homicide*

<table>
<thead>
<tr>
<th>Offender</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>A dull-witted (gvāgo) person who does not know what is to be done and what not</td>
<td>12 years imprisonment</td>
</tr>
</tbody>
</table>

Note: Someone of sound mind\(^1\) and able to understand but unable to speak (i.e., was mute) would have been sentenced to death for committing murder.

<table>
<thead>
<tr>
<th>Offender</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>An insane person who does not know what should and should not be done, who invites loss of caste by eating tabooed food, and who roams around as if in the state of liberation (nirvāṇa)</td>
<td>branding and confiscation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Offender</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>An insane person knows what should and should not be done, does not eat tabooed food and does not roam around as if in the state of liberation</td>
<td>branding and confiscation (for those who may not be executed) death (for those who may be executed)(^{ii})</td>
</tr>
</tbody>
</table>

\(^1\) Although the phrase *sabai thoka thāhā pāunyā* literally means ‘[one who] knows everything’, it seems to refer to mental sanity, a prerequisite for being held legally responsible for one's deeds.

\(^{ii}\) If such insane persons did not eat tabooed food before committing the homicide but started doing so only afterwards, they would be branded and their property confiscated if they could not be executed; if they belonged to a caste group whose members could be executed, they were sentenced to death.

**Regulations relating to execution**

The MA recognises only two methods of execution: decapitating or hanging. Other methods than these are considered to be unlawful. The prime minister is subject to a fine of one thousand rupees if he orders an execution to be carried out in any other way.\(^{104}\)

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104 See MA-ED2/64 §30.
Extradition

The MA has provisions regarding the transfer of a murderer from one country to another. Domestic authorities are not allowed to press charges against a foreign fugitive accused of a crime who has entered Nepal. It mandates instead going through official channels to bring about extradition. For example, it states:

If someone kills a person and flees towards Madhesa or Tibet and crosses a border pillar or a border demarcation, he shall be brought back in consultation with the English resident (rajiḍaṃṭa) if he flees to Madhesa, and with the Chief Kājī if he flees to Tibet. He should then be sentenced to death by domestic authorities.

An exceptional regulation for Rājapūtas on adultery and theft

Table 16: Regulations relating to Rājapūta on adultery

<table>
<thead>
<tr>
<th>Offender</th>
<th>Crime</th>
<th>Punishment</th>
<th>Parallels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rājapūta § 2</td>
<td>adultery or thievery within his own caste or involving a higher caste</td>
<td>no death sentence but rather banishment, shaving, caste degradation, imprisonment or confiscation</td>
<td>MDh 7.376, NārSm 12.7 and 12.69</td>
</tr>
</tbody>
</table>

As we have seen in Table 16, capital punishment for adultery or thievery within their own caste or involving a higher caste is forbidden when it comes to members of the ruling family. It is very surprising that a regulation relating to adultery and thievery figures at all in the Article ‘On Homicide,’ and that it should apply only to members of the ruling family, particularly since the MA has separate Articles (68 and 114) on

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105 The name madhesa (Skt. madhyadeśa and var. madeśa/madesa) refers to the flat region south of the Himalaya, north of the Vindhya range, east of Kurukṣetra and west of Prayāga (see MW s.v. madhyadeśa). This includes the flat lands in the possession of the Nepalese state of that time. In this context, however, the name refers to that portion of the region controlled by the British in colonial India. The other name, bhoṭa, which designates Tibet, also support the argument that both were used to indicate the neighbouring realms (see NGMPP K 175/18 below in Part II: C, Document 4).

106 MA-ED2/64 § 20.
adultery and theft. The effect is to seem to leave unanswered the question of whether a similar offender from another caste group would be subject to the death penalty or not.

2.2.4 Other References on Homicide

The MA attempts to regulate all sorts of possible crimes resulting in death. The Article ‘On Homicide’ does not itself cover all the possibilities dealt with in the code. Thus, I shall now proceed to present other references to murder in it found outside the Articles specifically devoted to homicide.

a) Homicide committed by members of royalty

The notion that the king was an incarnation of Viṣṇu long absolved the monarch from any kind of legal accountability in pre-modern Nepal. The Nepalese state remained true to its patrimonialist roots according to which the state was organized as an extension of the monarch's household. Monarchy itself was defined in religious terms, with the king as the upholder of the purity of the realm and its lawgiver. Such a polity was laid out by Jaya Sthiti Malla in his NyāV. The MA of 1854 for the first time not only reduced the monarch to a ceremonial (and primarily ritual) authority but also subjected him to strong legal scrutiny—on a par with state agencies. Therefore, the MA held that even the king should be punished if convicted of homicide in accordance with the written law. The regulations dealing with homicide committed by a king or other royal members were incorporated into the Article ‘On the Throne,’ which contains, for example, the following provisions:

If an enthroned king kills a younger brother or son—one who would get 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

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to his rank. Such a king shall not be entitled to the throne. The one who is [next in line] to get the throne according to the roll shall be enthroned.\footnote{109}

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.\footnote{110}

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 get the throne among those who come after him shall be enthroned.\footnote{111}

Table 17 summarises the regulations relating to homicide committed by a member of the royal family in connection with royal matters.

\begin{itemize}
\item \footnote{109} gaddinasida rājāle ēphnā sekhapachi gaddi pāune bhāi chorālāī ēphule jahara bikha khuvāi bhayo aru mānisa lagā bhayo jyāna mare bhane testā rājālāi gaddibāṭa khāreja gari jātapatita gari darjāmāpāṭika khāna lāuna di darbāradekhi bāhira nājarbandi gari rākhu yastālāi gaddi hudaina rolale gaddi pāune jo hun gaddimā unai lāi rākhnu. (MA-ED1/1 §9).
\item \footnote{110} gaddinasida rājāle bekasura benisāphamā ēphnā bāhulile kasaiko jyāna mare (read: māre) bhane gaddibāṭa khāreja gari darbāradekhi bāhira nājarbandi gari khāna lāuna ijjatasita di rākhanu. gaddimā gaddi pāune hakavālālāi rākhanu. (MA-ED1/1 §11).
\item \footnote{111} rājākā sekhapachi gaddi pāune hakawālā balihadale takhata mā basekā rājālāi bikha khuvāi māre bhane tinale gaddimā basna pāudainan. yastālāi jātapatita gari khāna lāuna di darbāra dekhi bāhira kaida gari rākhanu, gaddimā inadekhipachikāmā rolale jasale pāune ho unailāi gaddimā rākhanu. (MA-ED1/1 §10).
\end{itemize}
### Table 17: Regulations relating to homicide within the royal family

<table>
<thead>
<tr>
<th>Perpetrator</th>
<th>Description of crime</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enthroned king</td>
<td>killing his successor (MA-ED1/1 §§9 and 29)</td>
<td>dethronement, caste degradation and lifetime imprisonment</td>
</tr>
<tr>
<td>Enthroned king</td>
<td>killing anybody else unlawfully (MA-ED1/1 §11)</td>
<td>dethronement and lifetime imprisonment</td>
</tr>
<tr>
<td>Crown prince</td>
<td>killing an enthroned king (MA-ED1/1 §10)</td>
<td>cancellation of succession, caste degradation and lifetime imprisonment</td>
</tr>
<tr>
<td>Crown prince or other prince in line to the throne</td>
<td>killing the next in line (MA-ED1/1 §30)</td>
<td>removal from the line of succession and imprisonment</td>
</tr>
<tr>
<td>Other sons or brothers of an enthroned king who may be put in line to the throne</td>
<td>killing an enthroned king (MA-ED1/1 §12)</td>
<td>capital punishment</td>
</tr>
<tr>
<td>Other sons or brothers of an enthroned king who may not be put in line to the throne</td>
<td>killing an enthroned king (MA-ED1/1 §13)</td>
<td>capital punishment</td>
</tr>
<tr>
<td>Sons or brothers of the crown prince who may be put in line to the throne</td>
<td>killing a crown prince (MA-ED1/1 §22)</td>
<td>capital punishment</td>
</tr>
<tr>
<td>Queen</td>
<td>killing an enthroned king (MA-ED1/1 §14)</td>
<td>caste degradation, lifetime fettered imprisonment inside the palace</td>
</tr>
<tr>
<td>Queen</td>
<td>attempting to kill an enthroned king (MA-ED1/1 §14)</td>
<td>lifetime imprisonment outside of the palace</td>
</tr>
<tr>
<td>Prime minister</td>
<td>attempting to kill an enthroned king, queen or anyone in line to the throne (MA-ED1/1 §§31 and 32)</td>
<td>capital punishment</td>
</tr>
<tr>
<td>Prime minister</td>
<td>plotting to kill an enthroned king, queen or anyone in line to the throne (MA-ED1/1 §31)</td>
<td>dismissal from his post and imprisonment</td>
</tr>
</tbody>
</table>
The MA contains complex and strict regulations on how to deal with homicide, including exceptions under very special circumstances. As discussed above, the king was both lawgiver and executor of the law before the codification of the MA. In order to counterbalance the preponderance of kingly power, the MA, in formulating a regulation that the king could appeal for exemptions on behalf of murderers if he considered them extremely loyal or of great benefit for the kingdom, qualified this by requiring that such an appeal be sanctioned by the prime minister, the Council, a court and the army; otherwise, the executive body would reject the appeal. The text reads:

If an umarāva, army [soldier], subject or the like—whether high or low in rank—commits a crime punishable by execution, branding 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, wishes us well or is useful for such and such work,’ and if the venerable prime minister, umarāvas of the Council, chiefs of the courts or army officers shall pardon [the one] facing corporal or monetary punishment, then the Council 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 Aìn.\textsuperscript{112}

This provision shows that nobody had the individual capacity and authority to thwart legal action taken in response to homicide. It bespeaks a political respect for the rule of law and the value of human life.

c) Diplomatic immunity on homicide and protection of envoys

The Rāṇā rulers were aware that only a peaceful and cooperative relationship with British India and China could secure their survival and the country's autonomy.\textsuperscript{113} The MA attempts to ensure that political and legal actions with a foreign dimension to them were subservient to the higher-ranking state principle of maintaining such cooperative relationships. Therefore, it adopted practices common between states of guaranteeing certain rights to the other's citizens, including diplomatic immunity to its foreign envoys and diplomats. In cases of suspected homicide, it states that official representatives of the Chinese and English governments did not fall under domestic procedures for dealing with murder charges. Not only did these representatives enjoy such an exemption; their residences in Nepal were also granted the status of special zones of immunity, and in effect recognized as an autonomous territory, as spelled out in the following sections:

If an official representative or the official resident of China or England, having come to our realm, [spills] blood or commits [any other] crime, the courts of [our] own government shall not investigate the case. One shall send notice in writing to their government.\textsuperscript{114}

\textsuperscript{112} kohi umarāva phauja raiyata gaihra chotā badā kasaile jyū jāne dāmala hunyā dhana jānyā kurāko birāvā garyāko cha testālāi gaddinasida rājābāja phalānāle ta hāmrā nimakako sojho garyāko cha khararāvāhi (conj. kāravāhi) garyāko cha athisbā phalānu tā kāmako mānisa cha teskā jiya dhanako sajāya hunu parnyā kurā jo ho tesko śrī prām miniṣṭara ra kausālakā umarāva adālatakasāhā pahāni phalānu māphā deu bhani lukuma bhay bhane kausalale tajabija gari nimakako sojho garne khararāvāhi garyā rahecha kāmako mānisa rahecha bhane sakārabāta māphā gari bakseko manjura garna, yati kurā rahenacha bhane manjura nagarnu, ainabamojimakā sajāya garna. (MA-ED1/1 § 20).

\textsuperscript{113} See M. C. Regmi 1988: 9–10.

\textsuperscript{114} cīna amgrejakā ukīl bakīl rajāntañle hāmrā mulukmā āi kehi khuna taksāra garyā bhanyā tinako nīsāph āphnā sakārabāta adālatabaṭa herna hudaina. unaikā sakāramā lekhī paṭhānu. (MA-ED1 1854/2 § 17).
If somebody who has been staying inside a compound where an official British or Chinese representative or their official resident lives [spills] blood or commits [any other] crime, he shall be seized and brought to his superior, who shall be informed that such and such a person [spilt] blood or committed such and such a crime.\textsuperscript{115}

The two passages not only bear witness that the Nepalese state had internalised interstate norms of diplomacy, while applying limits to the king's authority as well. According to the śāstras, one major expression of the king's sovereignty over the sacred realm (deśa) was his duty to keep the realm pure from defilement by punishing criminals and maintaining the social order. The recognition of diplomatic immunity goes back to ancient times, but the Rāṇās' codification of it in the MA amounts to a realisation that state security required laws in writing that the state could be held to, even by foreign states. Thus, the MA not only guarantees the diplomatic immunity of foreign representatives but also puts up strong safeguards to discourage attacks against them, stating that ‘[…] whoever plans to take the life of a [British] resident or representatives of China […] shall be executed.’\textsuperscript{116}

d) Abortion and infanticide

Neither abortion nor infanticide is dealt with in the Article ‘On Homicide.’ The MA has a separate Article dealing with both entitled as jātakamārā.\textsuperscript{117} This is a compound combining jātaka (a newborn child) + mārā (killer).\textsuperscript{118} The rationale behind formulating a separate Article ‘On Infanticide’ lies in the dharmashastric and customary notion of impurity attached to the process of giving birth. Although in terms of content the Article ‘On Infanticide’ could have been incorporated

\textsuperscript{115} cūna aṃgrejakā ukīla bakīl rajātmṇṭaharu basyākā ṭhāukā unkā khalamgābhītra basnyā māṇśale khun garyo aru kehi taksīra garyo bhanyā uslāi pakrī tīmrā phalānāle esto khuna taksīra garyo bhanī usaikā mālik cheu puryāidinu. (MA-ED1/2 § 18).

\textsuperscript{116} MA-ED1/2 § 6.

\textsuperscript{117} See MA-ED2/143. The MA of 1870 retitles it as garbha tuhāunyā ra jātaka mārnyako (‘On Abortion and Infanticide’; MA 1870, p. 136–139).

\textsuperscript{118} According to pre-MA legal practice, killing a new born child was one of five exceptionally grievous crimes, the other four being the killing of a Brahmin, woman or cow and adultery. Such cases were taken up by the central court, the Sadara Adālata (see Hodgson 1880 [vol. 2]: 215).
into the Article ‘On Homicide,’ the MA deals with matters having to do with bodily impurity separately, regardless of relevance to other categories. As discussed above in the chapter on caste, in regulating matters, which have some connection with purity and pollution, the MA assigns a vital role during the process of purification of an offender or victim, for instance, to their caste status, and it is no different in the case of abortion and infanticide. Since both occur in the context of childbirth, those involved—for the MA’s purposes, mainly the mother—have first to remove the impurity that comes with childbirth by performing certain rituals depending on caste status. The injunction of Manu states that

… both the mother and father share in the impurity of giving birth. The mother alone is subject to a period of birth impurity, [whilst] the father becomes pure by bathing. [A woman] is purified after the same number of nights as the months [of her pregnancy] if she has a miscarriage.\textsuperscript{119}

Regulations relating to infanticide in the MA’s of 1854 and 1870 are listed in Table 18. Contrary to the dharmashastric view on abortion,\textsuperscript{120} the MA does not consider the act as homicide.\textsuperscript{121} However, it stipulates that abortion is not permitted by law, and therefore whoever aborts a foetus or contributes to such an act should be punished. The punishment for aborting a foetus is prescribed as enslavement (if the offender is enslavable), and otherwise payment of a fine and acts of penance if such is permitted by law. Both parties, the mother and collaborators, have to undertake expiation for killing a foetus. Further, the MA states that if a woman or

\textsuperscript{119} janane ’py evam eva syān mātāpitros tu sūtakam. sūtakam mātur eva syād upasṛṣya pītā śucih. rātribhir māsatulyāḥbhir garbhāsraye viśuḍhyati. (MDh 5.61 and 66).

\textsuperscript{120} The VDhS categorises the killing of a foetus (bhrūṇahatyā) as one of the exceptionally grievous sins, other four being adultery with the wife of an elder brother, drinking liquor, slaying a Brahmin and stealing gold from a Brahmin (see VDhS 1.20). The ĀpDhS also mention that having an abortion (garbhaśātana) is a grievous sin (see ĀpDhS 1.21.8).

\textsuperscript{121} The Penal Code of British India instituted by the British Indian government seven years later than the MA contains the same stance: The killing of a foetus is not a homicide. It reads: “Causing the death of a child in the mother’s womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.” (See section 299.3 in \textit{The Indian Penal Code of 1860}).
Table 18: Regulations relating to infanticide

<table>
<thead>
<tr>
<th>MA 1854</th>
<th>MA 1870</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Killing a newborn child is homicide. A female perpetrator is branded, a male perpetrator who may be executed is executed, and he is branded and his property confiscated if he may not be executed (MA-ED2/143 §§ 1 and 4)</td>
<td>1. Similar (MA 1870:138 § 8)</td>
</tr>
<tr>
<td>2. Not regulated</td>
<td>2. Plotters to commit infanticide and those who order infanticide are punished in accordance with the Article ‘On Homicide’ (MA 1870:138 § 9)</td>
</tr>
<tr>
<td>3. Exposing a newborn child with the intention to kill is homicide if the child dies. Those who may be executed face a death sentence, and those who may not be executed are liable to branding and confiscation of property (MA-ED2/143 § 4)</td>
<td>3. This is not the highest degree of murder since the victim is not directly killed. Male perpetrators are branded and their property is confiscated; a non-enslavable woman is imprisoned for 12 years; an enslavable female is enslaved. A prison term cannot be avoided by the payment of a fine (MA 1870:138 § 10)</td>
</tr>
<tr>
<td>4. Exposing a newborn child with the intention to kill, but the child survives. A male perpetrator undergoes confiscation of property and branding, and a woman 6-year imprisonment. A prison term cannot be avoided by the payment of a fine (MA-ED2/143 § 4)</td>
<td>4. Exposing a newborn child with the intention to kill, but the child survives. A male perpetrator undergoes confiscation of his property and 1-year imprisonment; a woman undergoes 6-month imprisonment. A prison term cannot be avoided by the payment of a fine (MA 1870:138 § 11)</td>
</tr>
<tr>
<td>5. 30 rupees fine for hiding information relating to infanticide (MA-ED2/143 § 5)</td>
<td>5. Similar (MA 1870:140 § 19)</td>
</tr>
</tbody>
</table>

Regulations 2, 3 and 4 bear witness to a process of penal reform between the two versions of the code. The 1870 MA reduces both the application of the death sentence and the severity of other punishments. Further, it explicitly does not accept a fine in lieu of imprisonment. Thus the 1870 MA developed the principle that criminals should be punished but not as harshly as called for in the 1854 MA.
a foetus dies from an accidental injury caused by her husband, midwife or any other woman while helping during childbirth, this falls under accidental killings, and thus nobody is punished:

If a husband, midwife or any other woman is helping a woman during her delivery by pressing her womb or body in order to deliver a child which is unable to be delivered [otherwise], and the woman dies [because of] the labour pains or the child is still-born, those who helped [her] shall not be held accountable, nor need they undergo expiation.  

*e) The ritual process of self-immolation*

Self-immolation as a form of ritual suicide was a common practice in ancient and pre-modern Nepal. Although most commonly self-immolation was carried out by widowed women as part of the funerary mourning for their deceased husband, the documented evidence suggests that even servants used to immolate themselves during the period of mourning the death of their master. The MA has a separate Article, which regulates the process of self-immolation in detail. Since an in-depth discussion of self-immolation is beyond the scope of the present study, and A. Michaels has already extensively dealt with the Articles on self-immolation in the 1854 and later codes, I shall here focus only on the provisions dealing with suicide.

The MA bans a widow from self-immolating as part of funerary rites mourning her son. It further mandates that anyone who allows a woman to do so commits murder, and therefore—if he belongs to a caste whose members may be executed—is to be put to death, while if he who belongs to a caste whose members may not be executed will be punished by branding and confiscation. The property of those who took part in the funeral procession to the place of cremation are to have

122 svāsni sutkāri humdā jāatak paidā huna sakena ra tyo vālaṣa paidā garāunānim-itta āphnu lognyāle havas aru sudyāni gaihra svāsni mānisale havas peta maḍāudā āga thicatā vālaṣa jhikdā tesa vethāko pirale svāsni mari vā vālaṣa jhiktā maryai ko rahecha bhavanā upakāra garnalai ṣatavāta lāgdaina. prāyaścitta pani garṇu pardaina. (MA-ED2/143 § 4).

123 For example, see NGMPP DNA 14/41, ed. and tr. by Axel Michaels in http://abhilekha.adw.uni-heidelberg.de/nepal/index.php/editions/show/237 (last accessed on 10 June 2023).

124 For detailed treatment of self-immolation, see Michaels 1993 and 1994.
their property confiscated but otherwise to be let off. Further, the MA explicitly states that the forced immolation of a woman counts as murder. A woman who decides to self-immolate but then reconsiders and leaves the funeral pyre should neither be killed outright nor brought back to the funeral pyre. Anyone who gives an order to kill her, and anyone who seizes and assaults her with the intention to kill are to be held accountable for committing murder, and thus will be punished by branding and confiscation. Moreover, for anyone except a son to urge a woman to self-immolate, even if she has the legal right to do so, is also considered murder. Such offenders are subject to capital punishment or branding and confiscation, depending on their caste status.

f) Homicide in exercising the right to kill a paramour

Almost half of the MA is devoted to regulating sexual misconduct—clear evidence that sexual offences were a major concern in nineteenth- and twentieth-century Nepal. One pillar of the shastric view of society was to consider sexual relationships as a main transmitter of ‘bodily impurity,’ and it was to a large extent incorporated into the MA. The higher the adulterer’s caste status, the more lenient the punishment. Jean Fezas has already extensively dealt with the regulations relating to it in the MA, so I shall focus here only on those parts of Article ‘On Adultery’ that are pertinent to homicide. The MA incorporated the pre-MA practice of permitting an aggrieved husband to kill the paramour of his wife under specified circumstances. The UjAin, to the best of my knowledge, is the first legal document, which mentions this right. The text reads:

125 See MA-ED2 94/ § 8.
126 See MA-ED2 94/ § 16.
127 See MA-ED2 94/ § 22.
128 See MA-ED2/104–163.
129 For example, the NyāV, which is basically only a code of conduct, is comparatively more lenient than the MDh, but it, too, is surprisingly brutal when it comes to adultery, stating: “If a man [commits adultery] with a woman not of his caste, he shall be subjected to the highest degree (uttamasāhasa) of punishment; if the woman is from the same caste, he shall be subjected to a middle degree (madhyamasāhasa) of punishment; and if the woman is from a higher caste, he shall be slaughtered.” (svajāyātikrame(!) pumsām utkam uttamasāhasam, viparyaye madhyaman(!) tu pratilome pramapaṇan(!). (NyāV, p. 179, see parallel in NārSm 12.69).
130 See MA-ED2/132 and MA-ED2/133.
131 See Fezas 1993.
132 See MA-ED2/134.
The fifteenth regulation of the fifth Article: If a man from any caste knowingly commits adultery with a woman who is a paternal blood relation up from the eighth generation or down from the fourteenth, or else with a woman from the maternal side up to the sixth [and down from] the seventh generation, then if the husband of that woman kills the paramour, so be it. If he does not, the paramour's genitals shall, depending on his caste status, be severed.\footnote{See Fezas 1993: 4.}

The sentence suggests that killing the paramour of one's wife had long been a common practice in pre-modern Nepal. As argued by J. Fezas,\footnote{See K. K. Adhikari 1976: 109.} no dharmashastric text acknowledges the specific right of an aggrieved husband to kill his wife's paramour. However, it was indeed an unwritten law in pre-modern Nepal. For example, K. K. Adhikari mentions that a husband who did not kill his wife's paramour and who did not cut off his unfaithful wife's nose was not entitled to enter into government service in the early Śāha period.\footnote{See K. K. Adhikari 1976: 109.} The MA officialises the law, while strictly regulating it. Among other provisions, only residents of the kingdom may exercise the right, while someone who once was a resident but left for a foreign land and was serving there is disqualified to return home and carry out such a retributive killing. The regulation states:

If somebody of any caste from the Gorkhā kingdom east of [the river] Mečī to west of [the river] Mahākāli leaves [the kingdom] for purposes other than trade, pilgrimage and religious observances, renounces his allegiance to the king and gives allegiance to a foreign king, and if his wife runs off with another man, then he who has given allegiance to a foreign king shall not be entitled to kill, shave and confiscate the property of his wife if he returns to his homeland, even if he has renounced allegiance [to the foreign king]. If he does so, then in accordance with the Ain he—if he is a Brahmin—shall have his property confiscated and be branded. If he is of another caste class, he shall be executed—taking life for life. If [such a person] has sexual intercourse with...
a blood relation including through use of force, he shall be punished in accordance with those same [Articles] of the Ain.\textsuperscript{136}

The MA specifies that in order to exercise the right of killing a paramour, the husband must belong to a caste whose members are granted the right to do so (jāra hānne jāta). Rājapūtas, Kṣatriyas, Magaras, Guruṅgas, Ghales and Sunuwars are listed by name as enjoying this right.\textsuperscript{137} Table 19 summarizes conditions applying to all cases of such honour killings as spelled out in the Article ‘On Adultery.’\textsuperscript{138}

Thus, a Rājapūta, Kṣatriya, Magara, Guruṅga, Sunuvāra and so forth may kill his rival if the latter is not a blood relation or a Brahmin. It is especially interesting that the MA does not make such revenge killings mandatory. Those who had a legal right to take revenge could decide whether to kill, reduce caste status, confiscate property or impose a fine.\textsuperscript{139} Moreover, it is expressly stated that one has only once chance to kill. If the paramour emerges from the attempt still alive, no second attempt is allowed. Any second attempt is dealt with in accordance with the law relating to homicide.\textsuperscript{140}

\textsuperscript{136} mahākāli pūrva meci paścima gorsā bharamulukakā căra varna chattisa jāta goihrale vamda vepāra tīrtha varta garnā vāheka āphnā sarkārako muluka nimaka chāḍi virānā rājako nimak śāṃya māṅšikā svāṃti arkāsita poila gayā bhanyā pachi nimaka chāḍi āyā bhanyā panī virānā rājako nimaka śāṃya āphnā mūlkānā āi jāra kāṣṭha mudana sarvasva lina pāudainan. jāra kāṭyo bhanyā vrāhmanale bhayā aina vamojima aṃsa sarvasva gari dāmala gari. arii jātale bhayā jānako vadalā jān kāṭi mārdindiu. hādā nāṭmā karāi gnayā na javarajastī karāi garnyālāi usākā aina vamojima sajāya garnu. (MA-ED2/135 § 6).

\textsuperscript{137} See MA-ED2/135 § 7.

\textsuperscript{138} See MA-ED2/135.

\textsuperscript{139} See MA-ED2/135 § 7.

\textsuperscript{140} See MA-ED2/135 § 18.
g) Killing of a cow

The protection of cows is a major concern addressed in Brahmanical shastric texts. The NyāV seems to be the first documented evidence of this concern being topicalized in mediaeval Nepal. Its provisions include cutting off part of a thief’s limbs for stealing a cow, while to kill one is to commit the most heinous kind of sin, on a par with killing a Brahmin, one’s own father or mother, preceptor, wife or newborn child. Such shastric practice continued in mediaeval Nepal, and it was explicitly adopted starting from the early Śāha period. As observed by A. Michaels, King Raṇa Bahādura Śāha seems to have been the first Śāha king to enforce a ban on killing cows throughout his realm. The MA formalised the ban by making it a strict legal restriction. Although the MA does not directly specify the reason for doing so, it is obvious that cows were of great significance for the Gorkhālī kings. The name Gorkhā, a contracted form of the Sanskrit term gorakṣa, means ‘protection of cows.’ The ban in the MA had its source not only in the strong spiritual ties with this Brahmanical and royal tradition; it also was one of the more significant symbolic acts meant to tout Nepal as the last remaining Hindu kingdom. Thus, the MA equates the killing of a cow to committing murder.

The following are the ways the killing of a cow is considered to be murder in the Article ‘On the Killing of Cow:’

— Killing a cow intentionally amounts to murder, and so offenders are branded.

— Striking a cow with a weapon with the intent to kill, even if the cow does not die, amounts to attempted murder. The offender’s property is confiscated and—if not enslavable—he is not further punished; if enslavable, he is arrested and enslaved.

141 “If someone steals cows or [the belongings] of Brahmins, his limbs shall be chopped off.” goṣu brahmanasaṃsthāsu(!) sthūrāyaś chedanaṃ bhavet. (NyāV, p. 287, and the parallel in NārSm 19.40).

142 “The realms where they go who kill a Brahmin, father, cow, mother, preceptor, newborn child, foetus or woman, who violate a preceptor’s bed or overstep the bounds [of propriety] are where they reach to after life who do not speak truth.” brahmahā pītrāḥ goghno mātrāḥ guruhā tathā. bāalahā hṛṇahā ceva(!) tathaiva gurutilpadaḥ. maryādāh katuṣṭakaḥ strīghno yān(!) yāṃ(!) lokāṃ hi gacchati. tām(!) lokāṃ prāṇyuvān mithyād(!) yah praśnam anṛtam vadet. (NyāV, p. 298, and the parallel in NārSm 20.1 fn. 1).

143 See Michaels 1997 for a detailed study on the concept and legitimation of cow protection.

144 See Michaels 1997: 86.

145 See MA-ED2/1 §1.

146 See MA-ED2/66 §1.

147 See MA-ED2/66 §2.
The lawful killing of a cow slayer

Killing someone who has intentionally slain a cow or an ox at the site where this has just occurred is classified under lawful homicide.148 If anybody in the Gorkhā realm sees someone who is deliberately setting about to kill a cow or an ox with a handheld weapon, he should first try to dissuade the latter from doing so. If he is ignored and the animal is slain, he may kill the offender on that day, at that moment and at that site.149

The unlawful killing of a cow slayer

Killing someone, then and there, who has accidently killed a cow or an ox is an unlawful homicide, and thus the offender is subject to capital punishment if his caste allows for his execution.150 Killing someone on the basis of second-hand allegations of a cow having been slain amounts to unlawful homicide, and thus such a person is to undergo capital punishment if his caste allows for his execution.151

The accidental killing of a cow

— If someone kills a cow under the following circumstances, it is taken as an accident and thus not punishable:
— When a cow or an ox dies while being driven back with a stick or a stone, while undergoing a vasectomy or while ploughing a field.152
— When a cow or an ox dies when being struck two to seven times while being chased away from standing near or consuming harvested crops.153
— When a cow or an ox is killed by a tiger or lightning strike, or else dies from some disease or for no apparent reason.154

The MA of 1870 has basically the same regulations relating to the slaying of cows. In addition, a provision was added to include yaks:

If anybody within the Gorkhā realm consciously kills a male or female yak, each individual [involved] in the killing shall be

149 See MA-ED2/66 § 10.
150 See MA-ED2/66 § 7.
151 See MA-ED2/66 § 10.
153 See MA-ED2/66 § 3 and § 11.
154 See MA-ED2/66 § 3 and § 13.
fined 40 rupees. If the fine is not paid, he shall be imprisoned in accordance with the Ains.\textsuperscript{155}

The ban on the killing of yaks is especially interesting here since the animal was neither considered to be holy nor was it a symbol of Hinduization. Careful reflection is needed for coming up with a rationale behind it. A. Michaels argues that the reason was that “the Bhotiya people of the border areas needed to be brought within the Mora kingdom of Nepal, at least symbolically, thereby marked as subjects of Gorkha, not Tibet.”\textsuperscript{156} However, this argument needs to be reanalysed. The MA has certainly set up strict barriers to the slaying of cows, at least partly because of long-established shastric norms and customary practices, but at the same time these need to be placed alongside similarly obligatory provisions not to kill other animals, for example, female goats, buffaloes or pigs. Even during sacrificial processions, female animals may not be sacrificed. It appears, then, that the main reason behind animal protection was the economic: The major source of income in pre-modern Nepal was cattle. The ban on killing yaks can be understood as a measure of protecting the economy in the Himalayan region as well as integrating that region into a centralised law-based polity.

\textit{h) Providing false news about death}

The MA sets forth the legal response to providing false information about somebody’s death. If such false information results in the death of a kin of the supposedly deceased person, the informant is held accountable for homicide. The pertinent passage reads:

If somebody goes to the home of someone else who has gone to a foreign land and informs [the occupants] that such and such a [member of the household] has died, and if the wife of the one said to have died ritually immolates (satī) herself on the basis of information received from that person, then in the case where he who was said to have died returns alive the informant—if he is from the caste that may be executed—shall be executed—taking

\textsuperscript{155} gorsārajabharamā jānī jānī kasaile cauri caurini māryo bhanyā mārnyālāi jiya 1 ko 40 rūpaiyākā darale daṃḍa garnu. rūpaiyā natiryā aina vamojima kaida garnu. (MA 1870 §16).

\textsuperscript{156} Michaels 1997: 92.
life for life. If [the informant] is a Brahmin, he shall be branded and his share of property confiscated.\textsuperscript{157}

2.2.5 Fundamental Differences in MA 1870’s Approach to Homicide

As previously noted, the \textit{Mulukī Ain} of 1870 saw not only material changes to the content of the text but also linguistic ones: the complex language structure of the 1854 MA was markedly simplified, with many small sections supplanting the more ceremonial tone of the previously prevalent long paragraphs.\textsuperscript{158} Provisions considered no longer necessary were deleted, and long sections rephrased. For example, the MA of 1854 narrates three lengthy true-life accounts to highlight why one should not invest one’s fiscal resources in foreign lands.\textsuperscript{159} The MA of 1870 dispenses with such narrative elements and simply formulates restrictions banning investment in foreign countries.\textsuperscript{160} Similarly, the Article ‘On Homicide’ was simplified and rephrased, and some new legal concepts have been introduced. The significant differences observed in the MA of 1870 are the following:

\textit{a) Ascetics and capital punishment}

The law on homicide as it applies to ascetics is ambiguous in MA 1854. Sections 3 and 4 deal with murder committed by ascetics.\textsuperscript{161} However, it is not made clear whether householder ascetics other than Brahmins are exempt from capital punishment or not. Such ambiguity must have caused confusion on occasion. By contrast, MA 1870 explicitly exempts only Brahmin and non-householder ascetics from capital punishment; any householder ascetic not a Brahmin is to be executed if convicted of murder.\textsuperscript{162}

\begin{itemize}
\item \textsuperscript{157} \textit{kohi pardesa gayākā mānislāi kasaile gharamā āi phalānutā maryo bhani sunāyo ra usai šavaramā svāsni sati pañi gaicha pachi tyo maryo bhanyāko mānis jyūdai āyo bhanyā tyo sunāuna āunyā mānislāi kātīnyā jātalāi jyāna jyāna linu. vrāhmaṇa jātalāi aina vamojimko aṃsa sarvasva gari dāmala garnu, (MA-ED2/96 § 1).}
\item \textsuperscript{158} See MA 1870 p. 1–2 §§1–5.
\item \textsuperscript{159} See MA-ED2/1 §1.
\item \textsuperscript{160} See MA 1870 p. 1 §1.
\item \textsuperscript{161} See MA-ED2/64.
\item \textsuperscript{162} See MA 1870 §152.
\end{itemize}
b) Privilege for Rājapūtas

The 1854 MA exempts Rājapūta ascetics from capital punishment if convicted of homicide, with no distinction made between householders and non-householders. The form their punishment takes is branding and confiscation. The 1870 MA removes this exemption, stipulating that if a Rājapūta ascetic is a householder, he should be put to death if convicted of murder. This shift in the legal code would seem to at least mirror, if not for its own part promote, a gradual erosion of Rājapūtas’ social status.

c) Substituting payment of a fine for imprisonment

According to MA 1854, an offender who is not directly involved in a murder can avoid his time in prison by paying twice the fine. For example, those who participate in a murder plot but do not go to the site are to be let off if double the fine is paid. Female offenders are more consistently provided this opportunity. Section nine states:

Those who plan [a murder] but do not proceed to the site of murder and those who plan a murder that is revealed before it can be carried out shall be [subject to having] [their] property confiscated and [being] imprisoned for one and a half years. They shall not be set free [from prison] even if twice the fine is paid [in compensation]. If a woman commits such [crimes], she shall be imprisoned for twelve years if the punishment for a male [offender] is branding. If she commits offences which call for the imprisonment of women, she shall not be [subject to having] her property confiscated, and her imprisonment shall be half of that of a man. If a fine is paid [in lieu of imprisonment] by a woman, it shall be accepted and she shall be set free.

In a reversal of MA 1854, the code of 1870 explicitly abandons the system of allowing offenders in homicide cases to forego imprisonment by paying a fine, irrespective of whether they were male or female:

163 See MA 1870 §152.
164 See MA-ED2/64 §1.
165 MA-ED2/64 §9.
myādakā rūpaiyā kattī diya pani nachodu ('whatever money may be offered [in restitution] for the prison term, [authorities] shall not let off [the culprit']). This indicates that the 1870 code acknowledged the notion that criminals should be punished equally, whether rich or poor. The legal provision in MA 1854 that allowed release from prison upon payment of fine may well have encouraged wealthy persons to continue breaking the law. Therefore, it can be argued that the 1870 MA was more sagacious in this respect.

Summing up, the stance taken by the MA regarding the punishment of a king for committing murder can be characterized as a unique blend of shastric ideas and evolving legal perspectives on the role of a monarch. Prior to the MA period, the prevailing belief influenced by the dogmas of the śāstras was that the king’s words were considered as those of Viṣṇu, possessing the ability to purify the impure, so that ‘even as a husband without good qualities is worthy of a wife’s worship, [so too] is even a king with bad [qualities] worthy of his subjects’ worship.’ For example, NyāV states: ‘An impure person can immediately become pure, and a pure person impure, just through hearing the speech of a king. [Therefore,] how can a king not be divine?’ On the one hand, the MA accepted the shastric position that kings should not be killed even if they exhibit very bad qualities; on the other hand, it established as a common policy under the rule of law that nobody is above the law. Therefore, the punishment introduced for a king’s committing murder is life imprisonment. Moreover, as noted in the earlier table, the other interesting regulation relating to homicide within the royal context is capital punishment for Brahmins who attempt to kill the ruler or his successor. This example demonstrates the ideological turmoil within shastric discussions during that time. Despite the unanimous protection afforded to Brahmins in all śāstras, the legal discourse prior to codification resulted in significant deviations from these traditional texts. These deviations allowed for the killing of Brahmins in acts of self-defense or their execution if found

166 See, for example, MA 1870 § 8.
167 nirguṇo 'pi yathā strīnāṁ pūjya eva patis sadā, prajānāṁ vigunopaya eva pūjya eva narādhivapib(!). (NyāV, p. 258, and the parallel in NārSm 18.22).
168 aśucir vacanād yasya śucir bhavati pūruṣah(!). śuciś caivāśucis sadyaḥ katham rājā na daivatam. (NyāV, p. 270, and the parallel in NārSm 18.49).
169 For example, the NyāV states: loke 'smiṁ dvā avācyāv ādaṇdayo(!) ca samprakārtitau. brahmaṇaś(!) caiva rājā ca tau hīdau bhīhṛto jaqat. “In this world, two persons, the king and a Brahmin, ought not to be blamed and killed, for both of them have protected the world.” (NyāV, p. 243, and the parallel in NārSm 15/16.21).
guilty of killing a king or the heir apparent. Furthermore, the king could also be downgraded in caste if they committed murder. Nor is the king any longer credited with such supreme divine authority that his verbal orders immediately make impure things pure. Rejecting the inherent divinity of kings, the MA re-assigned the attendant powers to the country’s executive body leaving the king himself accountable for crimes.
3 The *Mulukī Ain* in Its Application

Jaṅga Bahādura Rāṇā’s main aim in promulgating the MA was to unify the penal code by prescribing clear guidelines for meting out punishment. As stated in the previous chapter, since the earlier legal system had not been uniform, two offenders from two different territories, ethnic or cultural groups could easily have received totally different types of punishment for the same crime. Other aims were to bring the existing caste regulations for the multiplicity of Nepal’s ethno-cultural groups under a single legal framework, to standardise the legislative process and to create a uniform administration to function throughout the realm. The MA is the first Nepalese codification of civil and penal regulations to deal with almost all existing social, judicial and administrative matters. The codification incorporated normative ideas, customary laws and even British political concepts and practices. It was amended and supplemented several times and is still in use, even if in a form that is completely different from the MA of 1854. However, a major question remains, to be addressed in the following section.

3.1 Was the MA ever Implemented when Making Juridical Decisions?

Before elucidating aspects of the implementation of the MA, I shall briefly go over some issues regarding the question of implementing the Brahmanical legal scriptures (*dharmaśāstra*). There has been a long-standing discussion about the implementation of such law codes in social and legal practice. It is still not sufficiently clear to what extent Hindu society was administered according to customary practices (*deśācāra*) as opposed to legal practices grounded in the *dharmaśāstra*. It is possible that one of the sources of the dharmashastraic texts were

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1 See Michaels 2005b: 8.
2 See, for example, Rocher 1993, Lariviere 2004, Davis 2005 and Michaels 2010.
customary practices, but it is hard to imagine that the Brahmanical dharma-texts could have simply incorporated customs as practised in all the geographically and culturally diverse territories and societies of the Indian subcontinent and ended up with a universally acceptable code. Although piles of such Brahmanical jurisprudence of the ancient Indian subcontinent have been transmitted to us, almost no historical material on the legal practices has survived. R. W. Lariviere points out that the dharmaśāstra was never supposed to be codified law but only to provide guidelines for legal practice:

The application of all law is context sensitive. It is a delusion to think that the law can be proclaimed for all time and in every circumstance. The authors of the dharma literature understood this context sensitivity of dharma. It was never their intention to exhaustively record and codify all law applicable for all time. It was their intention to provide a means whereby law could be ‘discovered’ in each specific context. In an Indian context, there was never the idea that any two crimes or civil wrongs were identical, so there was no reason to be concerned with precedent. Each dispute was unique and what was needed was a general set of guidelines for procedure and for classification of the dispute. This is what the dharmaśāstra provided for dispute settlers of ancient India.

Davis’s conclusion regarding the issue of implementing dharmashastric texts is similar to R. W. Lariviere’s opinion that “sacred texts were not normally sources of positive law, but rather of jurisprudential training.” One clear strand of opinion, then, is that these texts are more theoretical exercises that paint a series of fictional constructs and could not possibly or reasonably have been meant, as they stand, to be put into practice as strict law codes. They are books of law—or rather, books of laws—containing, as L. Rocher states, “a mass of floating verses of rules and observations ‘that were, indeed, at some time and in some place’ governing the life and conduct of people.”

4 See Michaels 2010: 61.
5 Lariviere 2004: 615.
6 See Davis 2005: 317.
7 Rocher 1993: 267.
To illustrate the point that dharmaśāstra-texts are more normative and theological than practice-oriented in nature—in the sense that they do not lay down concrete judicial responses to the whole gamut of possible concrete circumstances, and thus could not be used as positive legal texts—I shall present the example of a document that I came across. Preserved in the NAK, it may serve as a solid documentary evidence for the current hypothesis. The document (DNA 4/100) is a letter sent by Raṇavīra Siṃha, a government employee, to General Bhīmasena Thāpā in 1835 (VS 1892) from the Pālpā frontier. It mentions the reciprocal treaty signed between the East India Company and the Nepalese government in 1834 (VS 1891) to control cross-border crime, especially theft and robbery, which was—and remains—a significant problem. Although Brahmins and women are always exempted from capital punishment in accordance with dharmashastric regulations and Hindu customary practice in pre-MA Nepal, an exception is made in this very plainly formulated treaty, to the effect that if, irrespective of caste and gender status, anybody commits an act of cross-border robbery, he or she shall be put to death by the authority in power where the crime took place. It is stated that the core reason for such strict punishment is in order to ensure the mutual diplomatic friendship between the two governments, Nepal and the Company state. Thus, Nepalese authority declares that anybody from the Four Varṇas and Thirty-six Jātas will be punished by death if the offences of cross-border theft and robbery are proved. This is a typical example illustrating that the legal practices tended to be based either on customary practices or on wholly practical concerns. Despite the fact that Brahmins and women were customarily exempted from capital punishment in eighteenth/nineteenth-century Nepal, such punishment was meted out for the purpose of ensuring smooth diplomatic relations regardless of what the dharmaśāstras and customary practice enjoined.

Coming to the MA, it has always posed the riddle whether the text was really made the basis of legal practice or whether it, too, remained a kind of dharmanibandha composed in the vernacular. Scholars who have dealt with different aspects of the MA have not focused in any great detail on the issue of its actual implementation. As pointed

8 See Part II, C. Document 1.
9 See, for example, ĀpDhS 14 and MDh 11.27.
10 See, for example, RŚEdict 15.
out by T. Manandhar,\textsuperscript{12} scholars argue that the MA did not bring any fundamental change to the courts of law of nineteenth-century Nepal because the Rāṇā aristocracy allegedly ignored court procedures that were written down in the MA.\textsuperscript{13} As observed by these scholars, the Council, which was the supreme executive body and court of appeal, was a mere puppet of the powerful Rāṇā prime minister. H. N. Agrawal even argues that the Council was used only once in 1847 by Jaṅga Bahādura Rāṇā, to declare the abdication of King Rājendra.\textsuperscript{14} 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 above the law.\textsuperscript{15}

Such arguments are made by scholars without paying enough attention to the large corpus of documents available in private and public institutions in the Kathmandu Valley and beyond. Among the documents, numbering in the hundreds of thousands, only some of them have so far been studied. These unstudied documents form a basis for the still largely unexplored history of legal practice under the MA in mid- and late-nineteenth-century Nepal.

In this section I shall therefore be discussing some of the noteworthy legal documents related to the MA that, issued nearly contemporaneously, were often directly incorporated into the MA both prior to and following the initial publication of the \textit{Ain}. Subsequently, I shall present documented evidence having to do with criminal cases and with civil law which proves that the MA was in fact not a \textit{dharmanibandha}-like legal tome but rather reflected current realities, and so must be regarded as the basis of and point of reference for the workings of the legal system of the Rāṇā administration.

\textsuperscript{12} See Manandhar 1999: 25.
\textsuperscript{13} See, for example, H. N. Agrawal 1976: 12 and M. C. Regmi 2002: 4.
\textsuperscript{14} H. N. Agrawal 1976: 12.
\textsuperscript{15} M. C. Regmi 2002: 4.
3.2 Associated Documents and Precursors

Jāṅgabahādurīsthiti

The Jāṅgabahādurīsthiti (hereafter JBS), edited by R. Shrestha, was a legal document (sthiti) drafted and actuated roughly three months before the initial publication of the MA. It was drafted by a certain Kedāranātha, possibly a scholar of Maithili descent, and finalised on Sunday, the fifteenth of the bright fortnight of Āśvina in VS 1910 (1853).

The invocatory stanzas are historically relevant, stating that the JBS was prepared by order of Jaṅga Bahādura Rāṇā. They signal the specific applicability of the document’s contents to Mithilā migrants from northern parts of India who inhabited southern parts of Nepal and, later, the Kathmandu Valley. It chiefly topicalizes rituals of initiation (vratabandha), marriage (vivāha), annual ancestral rituals (śrāddha), adoption (dharmaputra), the share of property inherited by a widow (vidhuvā amśadhana), property partition (amśabanḍā), penal categories, purity regulations and adultery. It also regulates the act of widow burning (satī jalāunu) and the annual death ritual related to such widows.

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 keeping unfamiliar customs from gaining ground.

16 Since the underlying documents mostly deal with rituals carried out by the Maithili people, it is highly probable that the author of it, Kedāranātha, was a Maithila Brahmin. In 1812 (VS 1869) Girvāṇayuddha made him the head of what appears to have been the Pustaka Khānā. The lālamohara issued by him gives Pandita Kedāranātha Jhā charge of an office containing “all” books (see NGMPP DNA 16/93, ed. and tr. by Axel Michaels in http://abhilekha.adw.uni-heidelberg.de/nepal/index.php/editions/show/839 last accessed on 10 June 2023).

17 jānakirāmacandrau dau taḍijjimūtasannibhau (ed. reads: °jībhaūta°). natvā śiṣṭān maithilā̃ś ca sthitis teṣāṃ prakāśyate. gorakṣeśvaramantrindrāh śrīmajjaṅgabahādurah. sākṣād dharmasya mūrtiḥ sa kumārasyāṃśasambhavah (ed. reads: oṃbhāmah). sarvesāṃ varṇadharmānāṃ sthitikartā (ed. reads: sthitikartā). prthūpamah. tadājñayā subodhāya sarvesāṃ desabhāsayā. “Having bowed down [my head to the feet of] both Jānakī and Rāmacandra (who resemble lightning and clouds) and the remaining Maithili [population], I shall explain the regulations decreed with regard to them. For easy understanding, [they are expressed] in the language of the country (i.e., Nepali), [this] by order of Jaṅga Bahādura, who is the māntrindrā (prime minister) of the gorakṣeśvara (i.e. King Surendra); who has manifested as an embodiment of the dharma; who was born into royalty (lit. born of a prince); who is a creator of all caste-specific duties (varṇadharmas); and who is [both] great and eminent.” (JBS/Invocation 1–3, p. 7).

in the region. Although the force of such ‘foreign’ imports was in this case being stunted, there is otherwise a noteworthy degree of tolerance of such customs, owing, not least of all, to the classical Brahmanical notion of deśadharma, according to which quasi-legal acceptance is granted to deviant regional customs practised in parallel to the official codified law, as long as they are not in open contradiction to it. One might even go so far as to speak of a long-standing tradition of legal pluralism, and in some cases of legal relativism; the evidence suggests that the Maithili people were not historically prevented from carrying out their own rituals and observing their own customs in Nepal.

A similar outlook is manifested in the MA: Judges presiding over courts in the Terai are exhorted to pass down judgement without breaching local customs, unless these go directly against the MA. However, now that legal relativism has made an appearance, it is necessary to specify that the applicability of multiple legal authorities is limited to a selected set of legal questions, and is supplanted by hierarchical and centralised rules when it comes to actually meting out punishment.

19 In fact, this is explicitly stated: maitihila brahmāṇako nepālādideśāko vāsa jo cha so paradesāko vāsa humāle yi jāṭyākā vyavahārākā diśāsīsale svavyavahārāmā kai nyūna kai adhika parna jālā ki bhanī samdehale […]. “The settlement of Maithili Brahmmins in Nepal (i.e., Kathmandu) and other region constitutes an alien influx. Therefore, there being a concern that irregularities may appear in one’s own practices through the adoption of these [alien] caste practices […].” (JBS/Colophon, p. 17).

20 See Wezler 1985 for a discussion of the concept of deśadharma.

21 See MA-ED1/167.

22 mahākālipūrba (read: °pūrva) mecipaścima madhvesa tariyānikā jillā jillāmā rāhyākā madhesiyā [parbatiyākā] nāṭā gotā hāda kuṭumbasāgākā kurāmā ra māśinyā kalam au upallā [tallā ka]ranī jāta bhāta pāṇi sanabandhikā kurā mā aghidekhi āyasamamako jo […] calī āyāko cha sohi bamohipa madhesiyālāi nisāpha garu. estā muddā ja […] cha aghidekhi calī āyākāmā ra ainkā ritamā pāṇi betyāsa pāṇiyā kura pari āyāmā khasokhāsa behorā pathāmu ra āyāko kāgaja heri […] tajabija bhai āyābamojima garu. “Regarding issues [of adultery] involving Madhyesi and Parbatyā peoples who have settled in the various districts east of the Mahākālī and west of the Mecī—[adultery committed] between relatives or blood relations—issues of enslavement as well as adultery, or issues of [the acceptance] of water and rice between higher and lower castes, judgements in which the peoples of Madhvesa are involved shall be passed in accordance with what has been practised earlier. If something comes up in which the Ain and practised customs collide, the exact details shall be forwarded [to the central authority]. [The judges] shall [first] look at the documents that have arrived [from the centre], examine them […] and pass [judgement] in accordance with them.” (MA-ED1/167 § 2).

The contextual function of the *Ain*: A treaty between the Nepalese government and East India Company

As discussed in the previous chapter, the MA served multiple functions, the chief of which was that of a binding legal code. At other times, and in other contexts, it stood in as the country’s constitution, while the heightened social awareness displayed by this text generated great momentum to craft further administrative regulations and diplomatic agreements. Very often, these ensuing texts followed in the mould of the MA, and that rather closely, since the latter was perceived as a constitutive model.

The treaty signed by the Nepalese government and the East India Company in 1855 (VS 1911) can be taken as an instructive example of how the standards set by the MA—both of a semantic and stylistic nature—were applied and transferred to the political domain. The MA had adopted, and explicitly acknowledged such international norms of foreign diplomacy as diplomatic immunity. In like manner, the treaty is signed by both governments following well-established norms of state-to-state interaction, and the procedures and approaches outlined in it closely follow standards set in the MA. For example, §18 (‘On Legislation’) states:

> If someone who lives inside the compound of the Chinese or British envoys or residents, commits a murder or any other crime, that person shall be arrested and handed over to his superior with the words: ‘Such and such a person of yours committed such and such a crime.’

In further elaborating upon areas of mutual cooperation between the Nepalese and East India Company’s governments, the treaty adheres to involving Madhyesi and Parbatyā peoples who have settled in the various districts east of the Mahākālī and west of the Mecī—[disputes] over transactions, loan deeds, money matters, [such] property [as] gold, silver, jewellery [and] cattle; verbal abuse, brawling, theft, injury from being struck by swords or bamboo sticks; murder; or adultery committed with members of Water-unacceptable and Untouchable castes, the judgement shall be passed out in accordance with this *Ain*.’ (MA-ED1/167 §1).

> 24 cīna ōngrejakā ukīla pakīlā raṭjanṭaharu basyākā thāukā unakā khaḷaṃgābhiṭra bāsṛṇā māṇīsale khun garyo aru kehi taksīra garyo bhanyā us māṇīsalāi pakṛī tīmrā phalānāle esto khuna taksīra garyo bhani usaikā mālík cheu puryāidinu. (MA-ED1/2 §18).
the basic tenor of foreign policy norms laid down in the MA, as exemplified in section 6 of the treaty:

If somebody who is connected to the British embassy or lives inside British embassy [compound,] and is not a subject of the Nepalese king, commits a crime within any of the Nepalese king’s provinces [but] outside of the embassy border, and the Nepalese palace decides that the accused person is liable for punishment, the Nepalese government shall arrest such a person, shall interrogate [him] and shall hand [him] over to the British embassy for [carrying out] punishment. If under these same circumstances that person is a subject of the Nepalese kingdom, it shall not hand over [the accused] to the British embassy for [carrying out] punishment. If Hindustani merchants or other subjects of the honourable Company’s government who have no connection to the British embassy but are living within the boundaries of Nepalese territory commit any crime at any place outside of the British embassy’s border and go to the British embassy for asylum in order to avoid punishment likely to be prescribed by the Nepalese palace, the British embassy shall not provide asylum to such persons. [The embassy] shall hand over such persons to the Nepalese government for interrogation and punishment.25

These examples show that the MA served as a constitution, into which legal documents were incorporated piecemeal, if not entirely subsumed. This laid a strong foundation for developing the country into a full-fledged nation-state.

25 yadi kunai vyakti, jasko vr̥ṣiśa vṝṭiśa sāmbandha cha, athavā vr̥ṣiśa dūtāvāsako bhītra vasekā chan au nipāla sarakārake prajā chainan, le vr̥ṣiśa dūtāvāsako śīmāko vāhira nipāla sarakārake kunai pani pradeśako bhūbhāgaṇa aparādha garyo ra so aparādhaṅko nimti nipāla daravāraṅvāta sajāyako bhūbhāgarī ṭhāhāriemā tyastā vyaktīlāi nipāla sarakārale pakrī jāca paḍatāla au sajāyako nimti vr̥ṣiśa dūtāvāsmā sumpine cha, parantu sohī avasthāmā yadi tyo aparādhi vyakti nipāla rājaṅako prajā cha bhane, nipāla sarakāra dyārā sajāyako nimti tyastā vyaktīlai vr̥ṣiśa dūtāvāsmā sumpine chaina, yadi kunai hindāsthānī mahājanaharu athavā mānanīya kampanīkā anya kunai prajāharu jasko vr̥ṣiśa dūtāvāsamaṅga kehi samvandha chaina ra jo nipālako śīmā bhītra vasekā chan vr̥ṣiśa dūtāvāsakā śīmā vāhira anya katai kunai kisimako aparādha garchān ra tinīharu nipāla darvāra dyārā daṇḍita hune thāha pāera vr̥ṣiśa dūtāvāsako śīmā bhītra śaraṇa līna gaemā, tyastā vyaktīharulāi vr̥ṣiśa dūtāvāsmā kunai aśraya diine chaina tathā jāca paḍatāla ra sajāyako nimti nipāla sarakārali sumpine cha. (Transcribed in Yogi 1966: 132).
3.3 Documented Evidence of the MA being Put into Practice

The first piece of evidence of the actual enforcement of the MA to be discussed here was transcribed by T. Manandhar.\textsuperscript{26} It records the carrying out in 1861 of punishments imposed by the Criminal Court (Iṭācapalī) upon seven criminals, two of whom were sentenced to death for committing murder:

Lachimanyā Jiryāla, who was living in Listi Kokarthali,\textsuperscript{27} was executed in accordance with [Section] 15 of [the Article] ‘On Homicide’ after he confessed [his crime] and wrote a note of confession stating: “On Tuesday, when the 20\textsuperscript{th} day of the month Maṅsira in the year [VS 19]18 was underway, I was at [my] cowshed in Japhebyāṃsi. In the morning, I had started doing work in the cowshed after freeing the farm animals (lit. cows and buffaloes) [to graze]. I realized that the farm animals were eating from the kunyū\textsuperscript{28} [standing] on the rice field. Meher Siṃha Basnyāta, the son of Naina Siṃha Basnyāta [born] to [his] Bhoṭinī\textsuperscript{29} wife, chased the farm animals off and came [towards me] swearing at me. Because he was swearing, I pushed him away and he fell down. When he struck me twice with a stalk of maize, I got angry and struck him, the said Meher Simha Basnyāta, on his head with a rod of kholamyā wood. He fell down on the spot and could not get up. He could not even gulp down water offered to him, nor did he speak either, or set his foot to stand up. I beat him on Tuesday when 3 or 4 ghadiś of the day had passed. It is true that the said Meher Simha Basnyāta died on Thursday when 10 or 11 ghadiś of the day had passed from [the effects] of the strike of the rod.”\textsuperscript{30}

\begin{itemize}
\item[27] This probably is a village in Sindhupalchok District in the Bagmati Zone of central Nepal.
\item[28] The word denotes a large heap of grain or straw, or a stack of hay.
\item[29] This term designates a woman who has Tibetan origin. The mountain tribal groups, Bhoti have been classified as both Non-enslavable Water-acceptable and Enslavable Water-acceptable castes in the MA, but it does not specify which mountain tribal group falls under which caste group (see MA-ED2/117 §§ 4–8).
\item[30] 18 sālakā maṃsira mainhākā 20 dina jāṃdā maṃgalabārakā dina japhe-baṃśimā ma gōṭh vasyāko thīṭhām. byāhāna gāī bhaīṣṭa phoī goṭhko dhāṃdā garna lāgyāko thīyām gāī bhaīṣile naina sīṃ vasyātako setako kunyū sāīḍye-cha ra nana sīṃ basnyātī ki bhoṭinī svāśnī paṭṭiko choro meher sīṃ vasnyātale
\end{itemize}
Gaja Keśara Thakuri, residing in the Sokhala [quarter] of Pharping, was sentenced to death in accordance with [Sections] 2 and 12 of [the Article] ‘On Homicide’ after he confessed [his crime] and wrote a note of confession stating: “It is true that when 7 or 8 ghaḍīs had passed in the evening of Tuesday, the 5th day of the bright fortnight of Māgha in [VS 19]18, I went to the house of Dīpalocanā Jaisyāṇī, the Brahmin widow of Raghu Jaisī, who was residing in the Pācaṃḍi [quarter] of Pharping. I opened the bar of the door with my hand, entered into the house and went to the upper floor. While she slept, I grabbed her by the throat, knelt down on her breast and grabbed her hands and feet. I killed the said Brahmin lady Dīpalocanā, making her vomit blood, and stole her property as well.”

The above self-confessed murderer Lachimanyā Jiryāla was executed after the pertinent section and Article of the MA had been cited. Section 15 states:

If somebody strikes a person either with his foot, a rod or a stone, and that person falls sick, becomes unable to walk and dies from the pain [resulting from the injury] within twenty-two days, the person who struck the blow is considered to have killed the victim. The murderer shall be sentenced to death.…

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31 Pharpin is located to the south of Kathmandu.


33 MA-ED2/64 § 15.
Of the foregoing victims, Meher Siṃha Basnyāta died from an injury within two days after being struck with a rod by Lachimanyā, who therefore, in accordance with the MA, is considered to have killed the victim under these circumstances even if he had no such intention. If the victim had died after twenty-two days, the offender would have only faced a sixty-rupee fine. Similarly, Gaja Keśara Ṭhakurī was executed on the basis of two other sections of the Article ‘On Homicide.’

Section 2 allows the death punishment to be imposed upon a Rājapūta: “… if a Rājapūta kills a person, he shall be executed.” Gaja Keśara Ṭhakurī fell under that category. Section 12 allows for capital punishment when there was an intent to kill. Even if the victim had not died, the assaulter would have faced the death penalty in accordance with the same section of the Ain, which also regulates attempted murder.

The second case (DNA 14/4) presented here is a royal order (rukkā) issued by King Surendra in VS 1937 to Captain Mvāna Siṃha Svā̃ra Chetrī in order to set forth formal procedures for carrying out the death penalty on Hari Goḍīyā, who was found guilty of committing murder. The offender, a resident of Maujye Bajhahī Pallāpura, Baharāica, Mogalānā, killed one Vadala Siṃha Thāpā and then fled. After more than a year he was arrested and brought before a court, where, on Thursday, the 7th of the dark fortnight of Phālguṇa in VS 1935, he confessed his guilt in writing at the Aminī, Adālata and Kacaharī courts that he killed his victim at night while he was asleep and then fled with gold and money concealed at his waist. Half a year passed, and on Saturday, the 30th of the dark fortnight of Śrāvaṇa in VS 1936, Lephṭena Bāla Narasimha Svā̃ra Chetrī and Bicārī Kāśinātha of the local Aminī court submitted a report to a higher court, the Iṭācapalī, that the offender had acted out of greed for property and had stabbed his victim twice in the throat at the latter’s residence during the night. Therefore, it was ruled that the offender be sentenced to death at the hands of a local untouchable at the grounds called Pāhāra Pokhara in accordance with Section 9 (‘On Homicide’) and Section 7 (‘On Executing, Shaving and Branding’).

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34 See MA-ED2/64 §15.
35 See MA-ED2/64 §2 and §12.
36 MA-ED2/64 §2.
37 See MA-ED2/64 §12.
38 See Part II: C, Document 2.
39 See MA-ED2/64 §9 and MA 1870 in NGMPP E 1223/17, p. 520 §9.
40 See MA-ED2/42 §4 and MA 1870 in NGMPP E 1223/17, p. 413 §4 and §7 for the respective section of the MA.
Subbā Paṇḍita Caṃdrakāṃta Arjyāla submitted a request to Prime Minister Raṇoddīpa and Commander-in-Chief Dhīra Samsera on behalf of the Iṭācapalī court to approve the death penalty:

… Regarding the trial which came to our attention through a request sent by the Iṭācapalī court, we give 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 Kailālī district and to the grounds called Pāhāra Pokhara and there to behead him at the hand of a local untouchable caste member in accordance with Section 9 on homicide […] and 11 on executing, shaving and branding.

The third piece of evidence (DNA 12/1) introduced here is a lālam-ohara issued by King Surendra in 1870 (VS 1927) to Mahanta Rūpalāladāsa of Basahiyā monastery (maṭha) in the Mahuttari region (jillā). Its purpose was to give final approval to a decision made by the Council (the supreme court of appeal) regarding a court case. The case in question was between Kāsīdāsa and Bāladāsa over the successorship to Basahiyā monastery after Mahanta Mohanadāsa’s death and control of the monastery’s property. As stated in the document, Mohanadāsa had both ritually and according to legal procedure granted the successorship and the monastery’s property to Kāsīdāsa in 1863 (VS 1920), as witnessed by three village notables and four of his disciples: Bālādāsa, Sukharāmadāsa, Jīvanadāsa and Prāṇadāsa. One year later in 1864 (VS 1921), however, Bālādāsa wrested control of the monastery, accusing Kāsīdāsa of having acquired the successorship on the basis of forged documents. Kāsīdāsa filed a case against Bāladāsa denying the charge. He presented the note of agreement written by the four disciples and attested by the village notables Gopāla Jhā, Rāma Baksakoi and Bhuvana Maṃḍara on the 14th of the bright fortnight of Māgha in VS 1920 (1863) stating: “Earlier, [our] teacher granted [successorship to the monastery] to Kālīdāsa, [and] today, we four brothers, too, [agree] to grant it to Kāsīdāsa.” Bālādāsa came back, arguing that the document had been forged by Kāsīdāsa. To counter this argument, Kālīdāsa presented a note of confession to the court written by the mentioned three witnesses. One of the disciples, Sukharāma, who was the eldest

41 One letter or number is missing in the document due to breakage.
42 See Document 2 (NGMPP DNA 14/4) for the source text.
among the three, said: “The document [presented by Kālīdāsa] is not a forged but [indeed] genuine. We are even ready to take an oath if necessary.” The investigation went on for two years. By the time the court made its final decision in favour of Kāsīdāsa, on Monday, the 2\textsuperscript{nd} of the dark fortnight of Māgha in VS 1923 (AD 1866), the plaintiff had already died. Thus, the court decided to grant the successorship and property to Rāmadāsa, one of the legally recognised disciples of Kāsīdāsa, in accordance with Section 56 of the Article ‘On Court Procedures,’ and to punish Bāladāsa in accordance with the same section and Section 34 of the Article ‘On Guṭhī Endowments.’ The judgement reads as follows:

[Bāladāsa] did not come to the court on daily basis [which is mandatory] in accordance with number [i.e., section] 56 of [the Article] ‘On Court Procedures,’ after the eyewitness [of Kāsīdāsa] wrote a promissory note [to the court], and was absent for 15 days. Bāladāsa presented himself in court until the 9\textsuperscript{th} day, but he fled on the 10\textsuperscript{th} day giving a written statement to the court on 14/15\textsuperscript{th} of the bright fortnight of Mārga in VS 1923 (AD 1866), saying: “Irrespective of the fact that I would win the law suit, [I agree] to let my [fellow disputers] win the case due to the fact that [I have certain] ties.” Since Bāladāsa did not come to present himself in the court till today, the successorship of the monastery shall be granted to Rāmadāsa, a disciple of Kāsīdāsa. Since Bāladāsa claimed the successorship [of the monastery], which he would not get, and also fled, he shall be fined 3000 company rupees in accordance with the section 34 of [the Article] ‘On Guṭhī Endowments’ when he is found due to the reason that he has no property and family to confiscate in accordance with the section 56 ‘On Court Procedures.’ If the fine is not paid, he shall be imprisoned and set free after the term of imprisonment is over.\textsuperscript{43}

Rāmadāsa, a disciple of Kāsīdāsa, did not in the end succeed to the monastery throne. He agreed to hand it over instead to Rūpalāladāsa, another disciple of Mohanadāsa, for as long as he lived. The decision was formally written down, and on Monday, the 2\textsuperscript{nd} of the dark fortnight of Māgha in VS 1923 (AD 1866) was forwarded by Ḍīṭṭhā Chandalāla

\textsuperscript{43} See Part II, C, Document 3.
Burlākoṭī and Bicārī Kapilamuni Pādhya of Jaṅgī Adālata 1 to the Council for final approval. After careful review, the Council approved it and issued a rukkā to Rūpalāladāsa under the name of Prime Minister and Commander-in-Chief Jaṅga Bahādura Rāṇā (who was also head of the Council) on Sunday, the 13th of the dark fortnight of Phāguna in VS 1923 (AD 1866). Four years later, Rūpalāladāsa made petition to the king through Prime Minister Jaṅga Bahādura Rāṇā and Commander-in-Chief General Raṇa Uddīpa (Raṇoddīpa) Simha Kūvara Rāṇā, and therefore the lālamohara (presented as Document 3 in Part II: C below) was issued by King Surendra. It contains an extensive report on the history of the case, including a lengthy citation from the Council’s decision.

As discussed above, this lālamohara rehearses the procedures leading up to a court decision. A local court first investigates the lawsuit, and a decision is rendered only after careful consultation of the pertinent sections and Articles of the MA. This decision is afterwards sent to the Council, which reviews the case to see whether it conforms to regulations in the Ain and adds observations of its own. Once the Council approves the final text, it is forwarded to the commander-in-chief and prime minister so that a rukkā can be issued. Afterwards it is sent to the king for a red-seal order to be issued by him to the winner of the case (e.g., to Rūpalāladāsa in the present document).

The fourth piece of evidence (K 175/18)44 is a complaint (ujura) made by Samsera Bahādura Pāḍe, an inhabitant of Naradevī Ṭola, against his kākī (the wife of his father’s brother) Rājakumārī Pâḍenī Kṣatryānī / Chetryānī. She is accused of meeting with her incestuous husband, Pṛthi Bahādura Pâḍe, accepting rice from him and having sexual intercourse with him. There is a set of documents relating to this matter, some seventy manuscripts in all, filmed in the NGMPP K series, including K 118/32, 39, 40–41; K 172/57–58, 63; K 175/32–34, 39, 42–44, 47, 49, 52, 57, 60, 66, 68–69, 71–73, 76–77 and 79–80.45 This trial thus deals with a family dispute between Rājakumārī Pâḍenī (the lawfully married wife of Pṛthi Bahādura Pâḍe) and the complainant, her brother-in-law’s son (bhatijo) Samsera Bahādura Pâḍe. From these documents, it is learned that this dispute arose in VS 1918 after Pṛthi Bahādura committed adultery with the non-widowed wife (sadhavā)

44 See Part II: C, Document 4.
45 Among these documents, only NGMPP K 172/57, 63, 175/2, 18, 32, 33 and 34 have hitherto been edited and translated. They are particularly relevant to the current discussion and are presented below in Part II: C.
of a fourth-generation cousin and with a similarly distantly related female cousin-in-law (cāra pustākī didī ra bhāujyū).

After committing adultery, he fled to the Terai (Madhyadeśa) with his entire family and household personnel. Later, Rājakumārī returned from the Terai and initiated a court case to obtain her legal share of the inheritance. Samsen Bahādura and his side of the family tried to avoid giving her any of the joint property, accusing her of being guilty of willingly accepting rice from her incestuous husband and having sexual intercourse with him. Rājakumārī Pādenī for her part insisted on her just claim, mentioning the expiation she had undertaken by order of authorities and offering further evidence. Here, I shall discuss this case as an example showing that not only court administration had proper knowledge of the MA but also that the local actors such as Samsen Bahādura Pāde and Rājakumārī Pādenī Kṣatryānī were well informed regarding its provisions.

In the first paragraph of his formal complain (ujura), Samsen Bahādura states that there is no regulation in the MA that grants cooked rice expiation to a person who accompanies and willingly eats rice with someone who has fled after committing adultery with the non-widowed (sadhavā) wife of a fourth-generation male cousin or with a fourth-generation female cousin. Moreover, he argues that such expiation has never been granted to anyone. Thus, he rules out the legitimacy of his opponent's claim: Neither is it grounded in law nor is there precedent for it.

Two issues are seen to be addressed in this statement: (1) adultery committed with an affinal or blood relation (in this case, with the non-widowed wife of a fourth-generation male cousin or with a fourth-generation female cousin), (2) the impossibility of granting expiation to anybody who willingly has eaten together or had sexual intercourse with an incestuous person.

These two issues are dealt with in the MA of 1854: Adultery committed by a Sacred Thread-wearer Kṣatriya is the subject of Article 116 of the Ain, consisting of 21 sections. Section 2 addresses adultery committed with blood relations (hādamā) traceable back to within seven

46 See Part II: C, Document 7.
48 See below, NGMPP K 172/57, 63, NGMPP K 175/2 and 34 (Part II: C).
49 See Part II: C, Document 4.
50 See MA-ED2/116.
51 See MA-ED2/116 § 2.
generations. The punishment for this offence is prescribed as confiscation of the offender’s share of property (amśasarvasva), removal of the Sacred Thread, shaving of the head, forced consumption of liquor and pork, downgrading of caste and exile—towards the west if the guilty party is from the east and vice versa—across the river. Further, cooked rice may not be received from the offender, nor expiation granted to him. Water, however, can be received.

The second issue is addressed in Article 89, ‘On the Religious Judge’ (dharmādhikārko). Section 2 of this Article, as argued by Samsera Bahādura in the first paragraph of his complaint, explicitly directs the dharmādhikārin not to grant expiation to those who have deliberately polluted themselves, only to those who have not (bhorako mātra patiyā dīnu). Further, he should grant expiation to any offender only after having been ordered to do so in a lālamohara. For granting expiation to an offender who was not entitled to such, the dharmādhikārin could be made to pay a fine of 500 rupees and be dismissed from his post.

Samsera Bahādura, in the fourth paragraph of the present document, refers to Section 2 of Article 89 of the MA when challenging the wife of his middle uncle to show him the patiyāpūrjī (certificate of rehabilitation) issued by a dharmādhikārin, since Section 3 of the same Article identifies dharmādhikārins alone as entitled to issue such a document. Despite the fact that the Ain does not directly order dharmādhikārins to issue a patiyāpūrjī upon successful completion of the expiation process, A. Michaels writes, referring to Sections 3, 20 and 29 of Article 89, that the certificate was an integral part of rehabilitation: “… part of the rehabilitation was a certificate (purjī) by which the former caste status was affirmed or reconfirmed. The Dharmaśāstra also prescribed that all certificates of rehabilitation be issued in a written form.” In any case, the present text illustrates that dharmādhikārins did indeed issue patiyāpūrjīs.

53 See MA-ED2/89 § 2.
54 aghi svāyā desāyāko nabhayā nijalāi bhayāko patiā lyāun ---4. (See Part II: C, Document 4).
55 See MA-ED2/89 § 2.
56 See MA-ED2/89 § 3.
58 See MA-ED2/89 § 3, § 20 and § 29.
59 See Michaels 2005b: 35.
60 A. Michaels presents an example of such a certificate issued in VS 1890, prior to the Ain of 1854 (Michaels 2005b: 40).
In the fifth paragraph, Samsera Bahādura refers to Sections 2, 3 and 6 of Article 89. Section 2 prescribes the general procedure for receiving patiyā: the person seeking to undertake patiyā goes to a court, amāla or ṭhānā, where a pūrjī is issued to a dharmacārī stating that the petitioner is eligible to undertake patiyā and that a patiyā should be granted to him. The dharmacārī will then grant him patiyā and issue a patiyāpūrjī. Thus, Samsera Bahādura’s challenge—if the pati-yāpurjī is lost, show him the pūrjī issued by the court in accordance with the Ain—stands on firm ground.

The sixth paragraph of Samsera Bahādura’s complaint argues in conformity with Section 4 of Article 89. This section permits the dharmacārī to grant patiyā only if an offence has not been deliberately committed. In cases of deliberate offences, dharmacārīs should grant patiyā only if ordered to do so by mukhtiyāras or because the king has issued a dastakhata/daskhata or lālamohara to that effect. If patiyā is granted without a lālamohara in cases of deliberate offences, dharmacārīs were fined 500 rupees and dismissed from their post.

The discussed document shows that the MA was consulted not only by the court actors but also by local concerned actors. The discussion of both court verdicts and the supplementary legislation to the MA of 1854 is crucial for understanding the growing need for more precise laws with better applicability. One such supplementary legal document, was promulgated by Raṇoddīpa Simha Rāṇā in VS 1936 (hereafter, called R-Ain). Its purpose was to assist in the training of judicial officials. In addition to defining criminal and civil cases, the R-Ain provides a clearer explanation of the hierarchy of judicial offices and officials, which was lacking in the MA of 1854. As stated in the R-Ain §§ 5–6:

The judicial office where the hākima of a gosvārā is appointed shall be designated as gosvārā aminī kacahari. An office where a lephṭena is appointed shall be referred to as aminī kacahari.

61 patiyāko kāgaja harāyāko bhayā adālatabāṭa patiyā garidinu bhāṃnyā purji bhayāko holā tesko nakal lyāun --- 5. (See Part II: C, Document 4).
62 See MA-ED2/89 § 2, § 3 and § 6.
63 hukumle patiyā bhayāko ho bhanyā pramāṅgīko kāgaja lyāun ---6. (See Part II: C, Document 4).
64 See MA-ED2/89 § 4.
65 A missive signed by the prime minister.
66 An administrative office of a baḍāhākima that looks after the security affairs of the whole district.
67 A lieutenant, according to Kumar below major adjutant (mejara ajiṭana) and above kharadāra/kharidāra (Kumar 1967: 100).
A ṭhānā shall be the name of the office where a subedāra\(^{68}\) is appointed. [Similarly], a jamādāra\(^{69}\) or havaldāra\(^{70}\)-appointed office shall be known as caukī. These designated terms shall also be used in official documents.

The person vested with the authority to decide a legal case shall be referred to as hākima. Other officials shall be recognized as clerks (kārindā). When documenting the titles of the respective officials, their specific title shall be used in accordance with their bestowed position.

Moreover, this legislation introduces uniformity in the script used for legal documents, possibly for the first time in pre-modern Nepalese administration. It mandates that reports and documents be sent to the prime minister exclusively written in Deva(nāgarī) script (R-Ain §3). Additionally, it provides guidelines on how to draft various legal documents, including a litigant’s application to file a court case, documents for accepting bail or surety, letters from witnesses, confessions, and the written format for taking an oath on dharma, among others.\(^{71}\)

As stated above, these documents indicate that the MA was not merely a theoretical and scholarly work like the classical dharmaśāstra texts. Instead, it was grounded in practicality and reflected the current realities of the time. Therefore, the MA is not simply a reiteration of Brahmanical moral values but leans more towards positive law compared to the Sanskrit legal texts of that period. However, it is noteworthy that only a limited number of court verdicts from the 19th century have been discovered thus far. This raises the importance of further research to determine whether the MA was strictly implemented throughout the entire country, from east to west, or if its circulation and enforcement were more limited in scope. While the document provided above indicates a broader implementation of the MA, additional investigation is necessary to ascertain the extent of its practical application.

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68 A commander of a military company consisting of ca. 100 soldiers.
69 A low-ranking commissioned officer in the army below the subedāra and above havaldāra, who could be also assigned to civil offices.
70 A lower, non-commissioned military officer, equivalent to Sergeant.
71 Please refer to the edition and translation of the lālamohara of the R-Ain below (part C, Document no. 12, A 1375/5). Additionally, I would like to highlight that Simon Cubelic and I are currently collaborating on the preparation of a comprehensive annotated edition and translation of the entire R-Ain. We intend to publish this work in Abhilekha, the research journal of the National Archives, Kathmandu.
4 Conclusion

In order to sum up the foregoing, I come back to the core questions raised in the beginning and will show how the findings of the present study can help to elucidate them.

**What were the major factors for the emergence of the MA?**

The process of codifying law in the Western world started from the eighteenth century onward, in, among other places, Prussia (1794), France (1804) and the Habsburg monarchy (1812). That this trend did not remain restricted to European states is evidenced by similar developments in the non-colonial encapsulated kingdom of Nepal. There, based on the principle that ‘crime and sin should be punished and purified,’ the MA was drafted to replace arbitrary legal practices with a unified system. The motto of the code was “equality in justice irrespective of an offender’s rank and position.”

The MA brought about a significant change by enabling expedited resolution of legal matters, bypassing the need to accommodate diverse local customs and shastric norms as previously required. Following the codification of the MA, there was no longer a requirement to consult śāstras or past court decisions before delivering court judgments. Despite the absence of pre-existing practical foundations, such as a well-established group of professional jurists, judicially trained ruling elites, or external colonial influence to guide the process of legal unification, Jaṅga Bahādura Rāṇā, the country’s prime minister, successfully orchestrated the transformation of heterogeneous legal practices into a unified legal framework under state authority. This process was shaped by the following key factors:

1 See MA-ED2/preamble.
(a) **The economic crisis in the country:** The power struggle within the royal palace and among other political elite groups in nineteenth-century Nepal led to a lack of centralized leadership, resulting in a significant depletion of the state treasury. This had a profound impact on the country’s economy. Against this backdrop, Jaṅga Bahādura Rāṇā implemented reforms aimed at establishing a unified system of land and revenue management. This was achieved by enforcing a systematic code of law throughout the country. With a central authority possessing such powers, the state gained the necessary means to effectively control the collection and distribution of revenue.

(b) **Protection of autonomy and monarchical fear:** Prior to Jaṅga Bahādura Rāṇā, there was no collective sense of nationhood among the royal family, political elites, and the divided subjects who were characterized by geographical, ethnical and cultural differences. Consequently, there was no unified sentiment to safeguard the nation’s autonomy against colonial powers. Jaṅga Bahādura Rāṇā’s rise to power further intensified political instability, leading to the emergence of various political factions at both local and national levels. As a result, anti-Jaṅga Bahādura political elites, including the monarch, sought alliances with the Company state, which posed a threat to Jaṅga Bahādura’s rule. In response, Jaṅga Bahādura took steps to foster a strong collective sense of nationhood and political patriotism among the population. Central to this effort was the codification of law, establishing a mutually binding legal contract that governed the relationship between the king, prime minister, and subjects.

(c) **Careful observation of colonial politics by Rāṇā rulers:** While the Rāṇā rulers maintained a strong stance of religious isolationism, which had been established by Pṛthvī Nārāyaṇa Śāha as a defence against colonial intrusion, they also displayed a keen awareness of Western political ideas and governance strategies. They established an extensive network of informants, envoys, and ambassadors in various locations within the Company state, and even undertook state visits to England and France to demonstrate a sense of openness. As a result, Jaṅga Bahādura Rāṇā drew inspiration from the British parliamentary system and its legal practices, which he had closely observed during his state visit. This influence is acknowledged by previous scholarship and

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2 See Toffin 2008: 163.
further confirmed by the present study, as evident in the incorporation of British political concepts and legal practices in the Articles ‘On the Throne’ and ‘On Legislative Affairs’ of the MA.

**How did the MA change existing notions of sovereignty and legitimacy?**

Existing accounts of the monarchy in nineteenth- and twentieth-century Nepal often emphasize the concept of divine kingship, which views the king as a sacred and ritualistic figure closely intertwined with the destiny of the kingdom. This perspective aligns with orthodox Brahmanical scriptures that uphold the notion of divine rulership. However, these interpretations of Nepalese kingship and the Rāṇā regime, particularly during Jaṅga Bahādura’s rule, are primarily based on non-textual studies that focus on the ritualistic roles of the king. In contrast, the MA presents a remarkable transformation of the king’s sovereign power and challenges the conventional understanding of the ‘state as the household of the king.’ It merges pre-modern concepts of kingship with new notions of legitimacy through law. By subjecting the monarchy to strict legal oversight, the MA separates the king from the state and ensures the country’s sovereignty by limiting the king’s divine role to ritual acts. The MA establishes the king’s accountability under the ‘rule of law’ and grants the executive body the authority to demote the king’s caste status if he violates regulations. The role of divine kingship requires re-evaluation in light of these developments. The monarchical policy introduced in the MA positions the king as a state actor rather than the sole proprietor of the realm. While the king’s ritual sovereignty still draws upon notions of divinity, the MA binds the king to the law in numerous ways. The king’s exclusive ownership of the realm, his authority to define foreign relations, and his ability to transform impurity into purity, among other executive powers, are visibly curtailed, further widening the gap between the king, the state, and religion.

The formulation of the MA in an isolated and conservative non-nation-state is indeed remarkable, as it reflects the adoption of the concept of the ‘rule of law’ within that context. While Nepalese political actors in the mid-nineteenth century were not closely acquainted

3 See, for example, NārSm. 18.
with the European concept of the ‘rule of law,’ it is apparent that exposure to British political and constitutional history, spanning from the Norman Conquest to the modern era, played a role in its development. However, there was no direct impetus for Nepal to adopt such a system at that time. The MA emphasizes the importance of legality, as it establishes regulations that apply to all individuals without exemption. It is significant that the concept of the ‘rule of law’ found its place within the legal framework of Nepal, considering the historical and cultural context in which it was formulated. One notable aspect of the MA is the establishment of the autonomy of the Council, which represents the military, civil service, judiciary, local officials, and village notables. This mirrors the English legislative sovereignty accorded to the Parliament and plays a crucial role in promoting the rule of law. The Council is empowered as the supreme executive body, possessing the authority to promulgate new laws and abolish existing ones. On one hand, the courts are accountable to the Council as the supreme legislative body, while on the other hand, the autonomy of the judicial bodies is guaranteed, granting them the right to issue independent judgments. This compatibility between the Council and the judiciary allows the state to function as an autonomous polity, where all employees, including high-ranking and local actors, owe collective loyalty. It reflects a system where the rule of law is upheld and respected, ensuring that the state operates within a framework of legality and accountability.

**Was the MA a strategy of Hinduization?**

It has become common among scholars to view the MA in terms of a strategy of Hinduization, or establishing the supremacy of Hindu values, by such measures as reinforcing a stricter caste hierarchy or incorporating laws to protect cows. I would argue, however, that the representation of Nepal as a Hindu kingdom in the MA should more aptly be seen as political propaganda aimed at rhetorically warning the British not to undermine Nepal’s autonomy. This can be seen e.g., in such eye-catching statements as the “rest of the (Hindu) world was in the hands of the Mleccha, (loosely: ‘barbarian’) i.e., the Company”—a

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4 See Cubelic & Khatiwoda 2017.
5 See, for example, Sharma 1977b: 285 and 1983: 18.
6 See Fexas 1990: 122.
turn of phrase probably coined in the Divyopadeśa, attributed to Prśvī Nārāyaṇa Śāha.7 To be sure, to a certain degree the MA represents an attempt to create a confessional state by bringing the pluralistic social and religious cultures and customs of pre-modern Nepal within a single legal framework in which a Hindu caste system—for all its being a very limited marker of classical orthodoxy—was principally dominant. Except a few regulations, though, such as the ban on cow slaughter, no rigid Brahmanism was imposed on non-Hindu subjects. Furthermore, barring a few exceptions, the MA does not specify which caste group (jāta) falls under which caste class (varṇa). This shows that the strategy behind caste regulation in the legal code was not to intervene in the customary practices and invited negotiation on the ground. Moreover, the MA is fundamentally liberal in its letting people choose or change their profession on their own. This is in strong contrast to the Brahmanical varṇa-system and Hindu customary practices, in which profession (jīvikā) was regarded as one of the essential elements for guaranteeing a person’s social status and religious purity. It is obvious, then, that the aim of the MA was not to establish a strongly hierarchical Hindu society. Rather, it was simply adopting contemporary social practices of a caste system in which Hindu norms were dominant. Since a complete modification of the existing social and caste customs was beyond the power of Janga Bahādura Rāṇā, Hindu caste customs were liberalised and brought under a unified legal code, and doing so helped to advance the weak state-economy of the Rāṇā regime—for one, increase in state income came from centralising the collection of fines paid in disputes related to caste and customs. Letting people choose their profession on their own also advanced economic productivity. On the one hand, the MA did not dramatically break with the existing caste system, which otherwise would probably have resulted in political and social chaos. On the other hand, it did alter the caste system to allow for economic improvements. Since the caste system in pre-modern Nepal had never been enforced in all its rigidity in large parts of the realm, it must have been relatively easy to integrate new entrants including non-Hindu populations into the caste society.8 Therefore, caste theories based on partial studies of the MA should be re-examined in the context of a larger historical trajectory.

7 As pointed out by M. A. Sijapati, the concept of ‘asal hindustān’ was also in “strategic and conscious contradistinction to the Islamic imperial presence looming massively to the south.” (Sijapati 2011: 33).
8 See Bista 1977: 18.
Was the MA only influenced by the *dharmaśāstras*?

Although the MA—in comparison to other instances of eighteenth- and nineteenth-century legal practice in Nepal—is progressive insofar as it visibly exemplifies the concept of positive law, it also accepts most social and religious customs as long as they do not pose a threat to the national interest or mainstream norms. The Article ‘On Homicide,’ for instance, recognizes the king as an agent of the state and accords him a focal position in state ritual. However, if he oversteps his ritual role, he is to be punished, like any agent of the state, by the country’s executive body. If, for example, he were to commit murder, he would be imprisoned for life. This shows that the MA attempted to establish a rule of law on the basis of the policy ‘sin and crime should be punished’ irrespective of the offender’s position or rank. In laying such a foundation for the nation-state in law, the MA distanced itself from shastric practice, wherein the king is treated as an embodiment of Viṣṇu, and no sin or crime committed by the king can be held against him. At the same time, the MA, in recognition of the king’s ritual role, 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 by lifetime imprisonment. Similarly, Brahmins, ascetics and women are also exempted from the death penalty, but instead are branded. Everyone else, however, can be sentenced to death if found guilty of murder. The exemption from capital punishment of the above-mentioned groups is in accord with normative ideas based on the *dharmaśāstras*. However, as noted previously, branding can be considered a form of social death which, under certain circumstances, could be considered a fate worse than actual physical death. Moreover, the MA safeguards the basic value of human life. For example, following shastric practice its ban on killing Brahmins and woman is not applicable in cases of self-defence. Irrespective of an attacker’s caste status, rank and position, one may kill in self-defence. Doing so does not result in punishment. This is just another example of shastric ideals being abandoned under a growing awareness of the positive nature of law. Similarly, the diplomatic immunity granted to foreign envoys if charged with homicide and the regulations governing extraditing a foreign murderer attest not only to the internalisation of interstate norms of diplomacy but also to a reduction of the king’s authority. According to the śāstras, one major

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9 See RŚEdict 15.
10 See MA-ED2 1854/64 §1.
expression of the king's sovereignty over his sacred realm (deśa) was his duty to keep the realm pure from defilement by punishing criminals and maintaining the social status quo. With the new norms of diplomacy recognised by the MA, foreign envoys were exempted from the domestic law on homicide; further, their residences in Nepal were granted the status of special zones of immunity, in effect recognised as an autonomous territory. The above discussion has shown that the source of the MA was not only the dharmaśāstra, but also the new political doctrine of the rule of law and the prevailing customary practices.

How and why does the MA of 1870 differ from the MA of 1854?

A comparison of the two Ains (1854 and 1870) shows a growing awareness and knowledge of more systematic legal practices. The simplification of the complex language structure of the 1854 MA by deleting unnecessary formulations, adding new real-world clarifications and rephrasing long and confusing sections proves that the need was felt to update the code, as it probably served as the primary basis for legal decisions in the courts. Interestingly, however, the comparison also discloses that the MA of 1870 retreats from the more secular approach to jurisdictional practices basic to the MA of 1854, wherein the courts were empowered with absolute autonomy. The MA of 1870 started restricting the fully developed autonomy of the judiciary by modifying the constitutional character of the 1854 MA, probably with the aim of strengthening Rāṇā authority. Although the Article ‘On Homicide’ of 1854 was greatly simplified and rephrased, and many new legal concepts were incorporated into the 1870 MA, the exemption from the death penalty granted to ascetics after being denied them by the 1854 MA can be interpreted as a reactionary tendency to restore more orthodox positions.

Was the MA enforced?

Finally, there has always been disagreement on whether the MA was merely a scholarly legal composition or if it served as a legal guide during court proceedings. Since no significant scholarly work has investigated the enforcement of the MA, an historical evaluation of it in terms of its actual legal authority has had to be put off. However, the documents
discussed in the present study do answer the question of the enforcement of the code. It could be unequivocally shown that the law code did in fact have legal force and was used as a primary basis for making court decisions. Even the study of this limited number of documents attests that the MA was not only consulted and applied by judicial bodies and the Council in the courts and the court of appeals but was also read, understood and used by local actors. As shown in the example above, the complaint issued by Samsera Bahādura attests to a profound familiarity with the MA, each point of his eight-paragraph complaint being made with reference to the relevant Articles and sections of the MA.

Sundry nineteenth-century documents, then, clearly tell us that the MA was not simply a theoretical and scholarly work like the dharma¬maśāstra-texts, but was written with practical ends in mind, and reflected current realities. Further, the MA cannot be taken as simply restating Brahmanical moral values as governing legal codes. Rather, it is much more modern in nature, with a palpable sense of the rule of law and a strong conceptual bent towards secularism, and indeed is much more in line with positive law than the eighteenth- and nineteenth-century Sanskrit legal tomes in British India.

The MA holds significant importance in the realm of South Asian legal history and serves as a valuable source for comprehending various aspects of state formation, the process of codification, kingship, caste hierarchy, social mobility, Brahmanical orthodoxies, and nineteenth-century political thought, including notions of legality, and religious patriotism in Nepal. However, the existing studies on these subjects have largely overlooked the comprehensive relevance of the MA, relying instead on partial contents of the code. Consequently, their legal and historical analyses suffer from a notable dearth of substantial empirical data to support their arguments. Therefore, a meticulous and critical examination of the MA will undoubtedly prompt a re-evaluation of current scholarly approaches to the history of nineteenth-century Nepal and South Asian history, from legal, political and socio-cultural perspectives. Furthermore, it is important to note that only a limited number of court verdicts from the 19th century have been unearthed thus far. This highlights the need for further research to determine whether the MA was rigorously implemented across the entire country, spanning from east to west, or if its circulation and enforcement were more constrained in scope. Although the aforementioned documents suggest a broader implementation of the MA, it is highly recommended to conduct additional investigations in order to ascertain the extent of its practical application.
Part II
Edition and Translation
Introduction

As mentioned before, the reprint edition of the MA published in 1965 (VS 2022) by the Ministry of Justice, His Majesty’s Government of Nepal, is actually the first amended version of the 1854 Ain (i.e., MA-ED2). Nevertheless, the MA-ED2 has been referred to as the MA of 1854 by scholars who have dealt with different aspects of the Ain. For example, A. Höfer’s study on the caste system of the 1854 MA is based on the first amended version, which was prepared on the basis of a copy of it made between 1865 to 1867. J. Fezas’s edition of the MA published in 2000 (i.e., MA-ED1) is so far the only publicly available text of the MA of 1854. Although J. Fezas presents the whole text including several Articles of the MA reconstructed on the basis of manuscripts kept in the NAK, his edition suffers, as pointed out by A. Michaels, from having failed to adhere to text-editing methodologies. For example, he records text variants by using different colours within the main text but does not tell the reader which variant he accepts. Also surprisingly, he changes all vas (व) into bas (ब), which is a common orthographic practice of Indic manuscripts written in Devanāgarī script. In short, he does not make his editorial principles clear. The MA of 1870 for its part has not so far been edited. Thus, a diplomatic edition of the Articles ‘On Homicide’ from both versions of the MA will be presented below, recording all the variants and editorial conjectures, emendations and so forth in footnotes, with the aim of making the main text as easily readable as possible.

The following manuscripts and editions have been used to prepare the present editions and translations of the Article ‘On Homicide’ of 1854’s and 1870’s MAs.

1 See Part I, 1.2.
4 See Michaels 2005b: 1 fn. 3.
1 MA of 1854

1.1 Edition of the Ministry of Justice (MA-ED2)


This edition was prepared by H. M. G. Nepal, Ministry of Law and Justice, under the guidance of Sūrya Bahādura Thāpā, who later became the prime minister. The editors were aware of two manuscripts: one dating back to 1854 and another from the period between 1865–1967 (VS 1922–1924). Despite having access to the original 1854 copy, the editors decided to base their edition on the amended manuscript copy from 1865–1967.

According to the ministry (MA-ED2, Preface, p. 6), the later copy incorporated provisions that had been both added and deleted during that period. Therefore, it was deemed more appropriate for the publication of the Ain. Unfortunately, the main manuscript upon which MA1 is based could not be located. Fezas (2000: xlvi–xlix) suggests that this manuscript may belong to the C series of the NGMPP microfilms.

1.2 Jean Fezas’s edition (MA-ED1)


This edition is based on:

1. MsA: This manuscript is believed to be from VS 1912–1918 (1855–1861?). It is currently preserved in the National Archives, Kathmandu under the Subject Number Ca.La.Na. 28/17. Although it lacks a title page, the catalogue card identifies it as ‘Aina.’ The manuscript, written in Devanāgarī script with occasionally faded black ink, is inscribed on fragile Nepalese paper in book form (measuring 34 × 25.5 cm). It begins on page 34r and ends on page 856v, with an unclear table of contents for the different chapters. Several

pages are missing, and there are additional contributions by different scribes, suggesting its use in formulating an amended version.

2. MsB: This manuscript is dated approximately VS 1933 (1876) and is also housed in the National Archives, Kathmandu under the Subject Number Ca.La.Na. 28/18. It closely resembles MsA and consists of 678 pages. It includes an appendix of 32 pages titled Dhanakutā-[Jaṭāke], which relates to the court of Dhanakutā. The manuscript’s front page confirms that it was used by Yakṣa Vikrama Rāṇā, the illegitimate son of Bam Bahādura Rāṇā and a brother of Jaṅga Bahādura Rāṇā. Yakṣa Bikram Rāṇā utilized this copy in Dhanakutā, a significant frontier during the Rāṇā and Śāha periods in eastern Nepal.

3. A manuscript from Gorkha: This manuscript, which Axel Michaels had microfilmed in 1983 during the NGMPP’s first microfilming expedition outside the Kathmandu Valley, is stored under the reel number F 20/3 in the NGMPP. It is considered the oldest recension of the Ain, as stated by J. Fezas, who edited and translated it into French.

4. Two smaller manuscripts containing Art. 0.1–0.3: The first one, NeBhā. 618, consists of only 135 pages and starts from page 11 with the initial section of the Article ‘On Guṭhī Endowments.’ The second manuscript, NGMPP Reel number E 1940/3, is part of a private collection and includes three Articles related to the throne, royal affairs, and ammunition.

1.3 Manuscript, VS 1910 (MA 1854-MS1)

This manuscript, dated 1854, is kept in the National Archives, Kathmandu under the accession number (ca. la. naṃ. 2817). The catalogue card names the manuscript as Ain on the cover page. The manuscript is written on Nepalese paper in Devanāgarī script. Each section of the Ain has been stamped in attestation at its beginning and end. The size of the manuscript is 34 × 25.4 cm.

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6 Fezas 2000: xxxv.
7 Fezas 2001: 11.
8 Fezas 2000: xxxix and xl.
2 MA of 1870

2.1 Manorañjana version, VS 1927 (MA-ED3)


2.2 NAK Manuscript 2, undated (MS2)

The manuscript was microfilmed by the NGMPP from a private collector under the running number 24615 and reel numbers E 1223/17 to 1224/1. The text has no title, but the catalogue card names it as ‘Mulukī Ain’ and puts it under the dharmaśāstra category. The manuscript is incomplete and in many folios the letters are rubbed off. The following folios are missing: 15–16, 111–112, 207–208, 240–243, 298–301, 364–365, 378–379, 439–440, 447–448, 545–550, 567–570, 578–579, 625–626, 649–650, 667–668, 681–682, 687–688, 691–700, 701–744 and 757–794. Page no. 207 is filmed twice. The manuscript is copied on modern Nepalese paper bound in a modern book form 33 × 25 cm in size.

Editorial Conventions

The texts have been transcribed as faithfully as possible so as to retain the orthographical features. The nukta-signs (as in ः, ः) and middle dots (•) have been silently ignored in the editions. Daṇḍas (|) have been supplied to the text as sentence breakers where necessary. Instances of such broken lines, whether long or short, are always indicated by three dashes (---). When it comes to word separation in pre-modern Nepalese documents, there is no explicit indication provided. As a result, the conventions of modern Nepali have been applied selectively, mainly for the purpose of enhancing clarity.

Round brackets ( ) in the translation have been used for editorial explanations and square brackets [ ] for necessary additions.

9 The middle dots (•) sometimes function as word separators, but in many cases are used without any obvious purpose.
Editorial Signs in the Devanāgarī Texts

<> scribal addition
<<<>> scribal deletion
[ ] editorial addition
{ } editorial deletion
(...) lacuna, breakage
( ) uncertain reading
A. Homicide Law: Editions

Edition of Article 64 of the *Ain* of 1854

प्रवर्तको

1. [MS1 p. 282] उपाध्याय जैसी बाल्य र तेहौत्या भट्ट गैह्दैसी बाल्य करैले मानिस महाैमा। २ अंस सर्वस्व गरी दामल गरुँ।

2. रजपूत जाताले आफ्ना हाँडनातामा र आफ्नुभन्दा उपल्ला जाताले कारण चौरी गैह्न कुरा सानातमा ऐनदोजिम मुहिया दामल हुन्या कैद हुन्या दंड हुन्या सर्वस्व हुन्या हुंछ। ज्यान जादैन। जारी गर्यामा साङुको पुसि जार काङैै भन्ना साङुलाई पत लादैन। रजपूताले मानिस माध्यम भन्या ज्यानको बदरा ज्यान काटिद्छ।

3. उपाध्याय बाल्य जोनी भयाका जैसी बाहतु जोनी भयाका रजपूत जोनी भयाका माङिकालो पत्ना नलाया जोनी भयाका र बसैसित नविग्रामा उपाध्यायका र जैसी विषुड दसनाम र जोनी जंगम सेवाैले व्याह जन्याका संतान औ बाहतु र माङिकालो पत्ना नलाया रमना फकिर कान चिराँका कान फट्ट्या यस्ताले ज्यान जान्या तसिमा। गर्ना भन्या ज्यानको बदरा ज्यान लिनु। ऐनदोजिम अंस सर्वस्व गर्ली दामल गरुँ।

4. तामाधारी छनू गैह्दै सत्वालि शृंद जात इन्हेंका। सन्तान दसनाम जोनी जंगम सेवाैलित मुहियाका र इनेका कन्या विद्वांत बेलिया दसनाम जोनी जंगम सेवाैले व्याह तिचोट जन्याका संतान मुहियाको ज्यान माध्यम भन्या ज्यानको बदरा ज्यान लिनु।

5. यदि थोक थाहा पाँउका चुतूरो जान्या मुखले बोलन नसकन्या लाटाले हितियार लट्ट हुन्गाले हाँन मानिस माध्यम भन्या ज्यानको बदरा ज्यान लिनु। गर्ना नगर्ना कुराको थाहा नपाउका म्थाङाले मानिस माध्यम भन्या तेस्तालाई १२ वर्ष कैद गरुँ।

6. चार वर्ष छतिसी जात गैह्दै साध्या विधवा र ११ वर्षदिपिका कन्याले मानिस माध्यम भन्या तेस्तास्व वस्तिलाई दामल गरुँ। सर्वस्व नगर्नुँ।

7. आफ्नु जन्याका चोराँचोरी मान्यी र आफ्नु लोम्यामा मान्यी चार वर्ष छतिसी जातका वस्तिलाई दामल गरी हातगोंदामा नेल हाँल जैल्याना गोलसरमा रापि रोजको चार पैमा सिधा दिनु। वाहिर निकालनु।

1 Throughout all editions, the ligature र्‍याशर् (र्‍याशर्) has been transcribed as र्‍याशर्।
2 Throughout editions, both ऐन्दौर् and ऐन्दौर् एनौ have been transcribed as ऐन्दौर्।
3 MA-ED2 तक्तिरा।
4 MA-ED2 इन्हेरुक्का।
८. [MS1 p. 283] कैलेआफ्नया जगयाजसमन नगद जिनिस चौपाया कमाराकमारी 
गैह्मुद्रामा झग्ना भै कैलाई ढेरै ६ जना मिलि ज्यान मायाको रहेछ भन्या मायारी 
भनि मतलब गन्या समातन्या १ हाँन्या १ मार भनि बचन दिन्या १ इ तिन जनाको 
ज्यानको बढाला ज्यान लिन्। इदेपि बाहेक अर छेकि छेकि कुटाई मराउँलाई दामल 
गर्न। अन्यायमा अरको ज्यान मायाको देपि नैस्थाक्य हेँरिरहन्यामा कुन्यामायी 
भंडा हेँरि रहन्या। ६ ढेरे रहाँछन् भन्या १६ वर्षमामा मातिका ६५ वर्षमयाको जानकार 
जानलाई जननि २०१२० रूपैया ढंग गर्न। कुन्यामायी भंडा देपि नैस्थाक्य मानिस धौरे 
रहाँछन् भन्या जानकार हउन वा तुडुबुढि हउन। ८ वालय हउन इन्द्रेलाई पतवात 
लाईदै।

९. कोहि लोन्या मानिसले रात दिनका विवाह धनमालका लालचले भयो अरु 
केहि इतिले भयो कैलाई मारी भनि ह्रतियारले हाणि रोपि जहर रिप पुबाइ ज्यान 
मायी भिमिरक्रा रस्ता पोपिरी गैहा पाडि इतार पोला जजहर साधु झोंगमा पुल 
पर्पाल हुँगा रूप ज्यान कौसि खानाबाट चन्याटि गर्निल लागाउन् वगाउन् 
खकलामा पक्ष पासो लाभार्या नुस्का माटो कपडा झारपात झाले यु लाभार्या गरि 
मानिस मायाको रहेछ भन्या इन्या मार भनि बचन दिन्या मानिसलाई समातिदिन्या 
जति जना छन्न तिन्नहुँ शान्या र चन्याटिदिन्या पनि जति जना छन्न तिन्नहुँ मायी 
वेलामा सम गयाका भन्न पनि नयाको। भन्न पनि मानिसका पैथे मतलबको कुरा 
उउआर मार भनि बचन दिन्या र ह्रतियार दिन्या तरको ज्यानको बदनवा ज्यान लिन्। 
भागाभनि बिकट कर्कु भरारो भनि वरिपरिवत्ते छेकिदिन्याहरुको ऐनवमोजिको 
अंस सबृचि गरी दामल गर्न। अरु मानिसको मतलबमा पस्ताका मानिस ठाउमा पनि 
गयाका ह्रतियार नजलान्या नछेन्या नसमाल्या यस्तायस्ता मतलबधलाई अंस 
सबृचि गरी १२ वर्ष कैद गर्न। मतलबमा पक्षाका मायी ठाउमा नजान्याहरु 
सबृचि गरी ६ वर्ष कैद गर्न। त्याको रूपः १०। डबल दिन्या पनि रूपः लि नछाडतु। 
यति १। भिरोरार गरी स्वाभि मानिसले ज्यान मायाको रहेछ भन्या दामल गर्न। 
यसै ऐनेमा लोन्या मानिसलाई दामल गर्न पनि लेपिस्का पटमा स्वाभि मानिसले 
गयाको रहेछ भन्या १२ वर्ष कैद गर्न। अरु कैद हुन्या कुरामा स्वाभि मानिसको सबिचि 
हुदैन। सबृचि नगरी लोन्या मानिसलाई लेपिस्का कैदको आधि कैद गर्न। स्वाभि 
मानिसका रूपः दिन्या लि छाड्दिनु।

१०. कोहि लोन्या मानिसले कैलाई मारी भनि ह्रतियारले हाणि जहर रिप 
पुबाइ सीमिरक्रा रस्ता गैहा पाडि पोपिरी इनार पोला जजहर साधु हुँगमा पुल १२ 
पर्पाल हुँगा रूप ज्यान कौसि खानाबाट चन्याटि पसायी खकलामा पक्ष पासो लाभार्या 
नुस्का माटो कपडा झारपात झाले यु लाभार्या गरि नुस्का माटो कपडा झारपात झाले यु लाभार्या 
वाण्यो वा गुहार पाद वाण्यो वा इलाजहरुले वाण्यो भन्न इन्या मार भनि बचन 

5 Emend. dherai; MS1, MA-ED1, -ED2 dherai.
6 MA-ED1, -ED2 heri rahanyāmā.
7 MA-ED2 vudhā.
8 MA-ED2 omits haun.
9 MS1 omits nagayāko.
10 MA-ED2 omits rupaiyā.
11 MA-ED2 yahi.
12 MA-ED2 jholagā pula.
दिन्या मानिसालाई सामान्यितिन्या जति छन्नु तिल्ले हांस्या र भण्डात्त्य न पनि जति छन्
तिल्ले उन बेलामा सम गणका भया पनि नगणका भया पनि कार्यस्मृतीको कुरै उठाउ मार भनि बचन दिन्या नित्यन्त ईन्द्रो ऐन्नविमौध्यको अंस सर्वस्त गरि दामल गर्नु।
भागला भनि विकक बलुया र मारोम भनि बरिपरिवर्त क्षेत्रव्यवस्था ऐन्नविमौधको अंस सर्वस्त गरि ६ वर्ष कैद गर्नु। अर मनोज्ञ मयास्ति मानिन्त ठाउमा पनि नगणका हृतिताल नत्यमा छन्नु नत्यमा वस्ति नगणका सर्वस्त गरि ३ वर्ष कैद गर्नु। मनोज्ञ गरि मानिन्त ठाउमा नयाकालाई र मनोज्ञ गर्नु छ जाहेर भयो भन्नु तेस्तालाई सर्वस्त गरि १। वर्ष कैद गर्नु। स्यामको रूपैया नलिन्। येहि विहोरान्त स्वालि मानिसले तेस्ति रहेछन भन्नु दयाल पलि दयाल गरी।
भयो भन्नु तेस्ति लयामा सर्वस्त हुदैन। सर्वस्त नलिन्। कैदमा लोग्ना मानिसालाई लेखामा कैदको आधि कैद गर्नु। स्वालि मानिसका स्यामको रूपैया दिन लिदिनिन्।

१। [MS1 p. 284] विषय ह्रष्यु यक जनामाध्य चार जना आइलाया र लालेने लिटिले कुटिपाट गर्नें तेसले ज्यु भण्डाउन निमित हृतिताल काहि पन्नाउदा। तेकहि मयो भन्नू तेस्या तेस्ति पत्रालाई लागुन। वक जना माध्यु तेस्का ५ जना आइलाया लालेने लालाले तेसिले कुटिपाट गर्नें तेसले हृतिताल चलायो र घाल चलायो भन्नु पत्रालाई लागुन।

२। कोसह लोग्ना मानिसले वा स्वादि मानिसले सुयामा बेलामा वा विहोरान्त हस्स स्वालिसालाइ हस्स वालफलाइ हस्स मारोि हनि रेडिणो

पोद्देश हालेके पत्तर मुडाले विचेक दवो लायेछ सुभाष र ज्ञान मरेछ भन्नू पनि देवसम्योगले वाचेछ भन्नू पनि बाहुल्य र ऐन्नविमौधको भेषधारिकालै उको ऐन्नविमौधको अंस सर्वस्त गरि स्वादि मानिसालाई सर्वस्त हालिर दामल गर्नु।
अर जातिवाई ज्ञानको वदल ज्ञान लिनु।

३। कोसह सबुद्ध तेस्ति मानिसालाइ लिटि दुंगाने हानियो हानिको घाउ पाय निको नभै तेसका पिडाले मयो भन्नू तेसको ज्ञू बाहु। तेस विनयो छेत्रो विफार आकर पत्रामा [लागी] लिटि लोटि दात हुनाने टोकि मयो भन्नू घाउ लायेसम्यो चत पत
लाग्छ। ज्ञान मयो भनि ज्ञानको वदला ज्ञान हुदैन।

[13a] [MS1 p. 285] कोसह सबुद्ध मानिसालाइ लिटि दुंगाने हानियो हानिको घाउ पाय निको नभै तेसका पिडाले २२ दिनभिष मयो भन्नू तेसका चोटले मयोको

13 MS1 pasāudā.
14 MA-ED2 viujhāmā.
15 MA-ED2 mārī dinu.
16 The following information is added in the left margin of this section: 19 sāla āṣā. va 14 ro 3 mā kehi meti sacināle arko leṣiyo---(the another [section] has been written due to the fact that [this section] section was corrected by deleting some [of it] on Tuesday, the 14th dark fortnight of Āṣāḍha in the [Vikrama] year [1919]. The emended section is copied as section 39 in the MS. The MA-ED1 reads the added part: ‘19 sāla ākhā. b 14 ro 3 mā kehi meti saci[...]ā-le arko lekhiyo’. It misinterprets the added part as ‘this section was modified in VS 1918'. However, as mentioned in the added part, this section was amended in VS 1919. The MA-ED2 records only the amended section whereas, the MA-ED1 records the both, the original and modified sections as 13b and 13kh (cf. MA-ED2 §13, MA-ED1 §13b and 13kh).
काठिन्यमा जातको ज्ञानको बदला ज्ञान काटि मारिदिनु। नकाठिन्यमा जात
भय ऐनबमोजिमको अन्त सर्वस्व गरी दामल गर्नु २२ दिनदेखि उपरांत ३ महानिमित
मयौं भन्या सर्वस्व गरी दामल गर्नु। तेसै थाउको देखि निको नभेसै तेसै पिरले ३ महाना
उपरांत ६ महानिमितमा मयौं भन्या १०० रु पैको दंड गर्न। १६ महाना उपरांत मयौं भन्या र कुटियाका २२ दिन भिने मुख्य विदेश आयाम पत्तनाम
[लागी] लहिड सिरिप दात हुन्नाले दोक धमाको भय ज्ञान मार्याको पत्र लागै।
जातामैमको कुटियाका गर्यो हो उसै ऐनबमोजिम दंड काड गर्दै।

१६. कसैले मलाई कुटियाका २२ दिन र ऐनबमोजिम कुटियाका दंड भयापछि कुटियाका पिरले २२ दिन नभेसै भै आफ्नो जातकाम गर्न हिडन हुन्न लाग्न पछि अनौची लागि २२ दिनभिमितमा मयौं भन्या निको भै काजकाम गर्न । र हिडन हुन्न लाग्न हुन्नाले कुटियालाई फेरि पत्ताबत लागै।

१७. कसैले लालने घडी होंगाले हान्यो र बला परी हिडन सक्ने सेका पिरले २२ दिनभिमितमा मयौं भन्या तेसैले मयौ कठौ। मार्याको ज्ञानको बदला ज्ञान लिनू। उद्थै तेसै पिरले २२ दिन नाथापछि मयौं भन्या ज्ञानको बदला ज्ञान हुँदैन। बला पन्नाम गरि कुटियाका बाबत ६० रु पैको दंड गर्न। १६ महाना उपरांत मयौ मार्याको भन्याको ज्ञानको वदलाको ज्ञान हुँदै।

१८. कसैले गला घोर्यो हालने कठाउमा १ चोर कठोर अन्यत्रो हान्यो तेसैले पिरले बला परी उद्थ सक्न ७ दिनभिमितमा मयौं भन्या तेसैले ज्ञान मारिछ। दिनभिमित मयौं भन्या ज्ञानको बदला ज्ञान हुँदैन। कुटियाका गरि बमोजिमको जरिबनाम हुँदै।

१९. अकयाले मलाई कुटियाका बाप्रकारको हान्यो पकरि लुझ्नु भनि पाहो र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या र अडया अदयालत अमु र हान्यको आग्ने जाता आज्या ।
प्यादा सिपाहिनि पकि ल्याउदा बिचमा पकि ल्यायाकालाइ कसैले कुटिपट्ट गरि ज्यान मरेछ भन्ना प्रजाठानु मात्र भन्ना ऐनवमोजिमको अंस सर्वस्व गरी दामल गर्नु। अर्थ जातै भन्ना ज्यानको बदला ज्यान लिनु। पक्रन्या र पकि ल्याउन्या प्यादा सिपाहिनि पत्तबाट लागैलै। हाँकिम अडा अदालत असलले नम्बर पकि प्यायाकालाई अर्थाते चौट छादा मायाको रहेछ भन्ना जति जनाले चौट छोड्याको छ उति जनालाई काठिन्या जातालाई ज्यानको बदला ज्यान लिनु। नकटिन्या जातालाई ऐनवमोजिमको अंस सर्वस्व गरी दामल गर्नु। पक्रन्या पकि ल्याउन्याको ज्यू जादैन। ऐनवमोजिमको अंस सर्वस्व गरिले छादिदिनु २३।

२०. अर्को ज्यान मारी कोडि मानिस लट्टा सिविन नान्थि समेक भोटरफ भागि गयो भन्ना तेस्तालाई मध्यमस्तिर गयाको भन्ना रजिदकिनित भनि भोटरफ गयाको भन्ना भोटका मोद्याकिषिमत भनि आँढा विकाय ज्यानको बदला ज्यान लिनु। विरिन वुसुकमा भै ज्यान मारी विरिन वुसुकमा भै समापन पति हुँदैन।

२१. कसैले मानिसलाई ज्यान लाग्ने र सापुरुङ्ग गृहार देठ भनि गृहार मादा घरब सुनि गृहार निदियाहुमा मानिस हेरि आकार २५० दोमलाइ २० सिमला छ५ चहरालाइ १० रूपया देठ गर्नु। रूपया नतियाँ ऐनवमोजिम केहि गर्नु।

२२. राजा बवजिर र देस देवावट आयाका उकिलबिनक न सनविधि कुरा बाहेक कसैले कसैले ज्यान मायामा भन्ना ज्यान मारिया र ज्यान मानिसको मतलब गर्न्याहुलाई ऐनवमोजिम सजाये गर्नु। ज्यान मानिसका मतलबमा नप्तुका ज्यान मारिया पन्छ याहा पाइ द्वाउनयामा आफ्ना आफ्नाको स्वाभित सहोदर दानुभाई दिदिवबिहि छोडाछायि सामुद्रहारीले द्वारायामा यतितला पत्तबाट लागैल। गांजा जानकार द्वारा मु [p. 286] पिया नभार नाक्यकु म हामयात्रा प्राधिन पसिका ज्येठा बुधा गाउले कुडुवायाहुले द्वारायाको भन्ना ऐनवमोजिमको अंस सर्वस्व गरी २ वर्ष कैद गर्नु। अर्थ गांजा दुनिमाँ धैतिले सूति द्वारायाको भन्ना ऐनवमोजिमको अंस सर्वस्व गरिले छादिदिनु २५।

२३. कसैले कसैलाई ज्यान मारी भंनि ज्यान मारी सलमबं गर्न्याछ। भनि आयाए र उसले पोयाकालाई सिकाय रोवकार गर्दी मानिस मानिसको मतलब गर्नायको कोडि ठहरेन रिसले पोयाको ठहर्याइ भन्ना तेस्ता पोयालाई लोग्न मानिसलाई सर्वस्व गरी २ वर्ष कैद गर्नु। र्याकार रूपया नतिनु। स्वाभित मानिसलाई २० रूपया देठ गर्नु। नतियाँ केहि गर्नु।

२४. सबाका देडिमा पहारा वल्ला पजानामा पहारा वल्ला हुकुमले र कमानले अर जगामा पालो पहारा वल्ला नगद जिनस चौपाया मानिसको पहारा वल्ला आ रमन विकल्पमा पालो वल्ला मानिसलाई कसैले बन्दुक तिर धर्मियाँ चलाउँ। र छाउ लागि पालो वल्लाको ज्यान मरेछ भन्ना पति मरेछ भन्ना पति तेस्ता धर्मियां चलाउन्यालाई कै ज्यान मारीदिनु। रगल मात्र आयाको भन्ना पति कै ज्यान मारीदिनु २७। धर्मियां भन्ना चलाउमधेस रगल भंन आयाको रहेछ भन्ना दामल गर्नु।

23 MA-ED1 chāḍi dinu; MA-ED2 choḍi dinu.
24 MA-ED1 ukili vakila; MA-ED2 ukil vakil.
25 MA-ED1 choḍi dinu; MA-ED2 chāḍi dinu.
26 MA-ED1 garyā chan; MA-ED2 garyākā chan.
27 MA-ED1 kāṭi māri dinu; MA-ED2 kāṭidinu.
25. लालमोहर दस्तपर अधिकृत बंद भयाको बाटामा जसले चुन पाय पर्वतसामाय मानामोहरिहर्ष छवछ लगी ज्यू माना मानिसनाथ उमकाउछ उमलाई दामर गर्नु। चौरी गरी आउन्ना उमलाई भन्ना जति चौरी गरी भायाको छ उमकाउन्ना उतम बिेणो लियो। चौरी फेला पयथो भन्ना तेने बिेणो यसैवाल उठाइ ले। भन्ना सोपिन्दू। अर चुने गरी भायाकालाई उमकाउन्ना भायाकाल जीन सजाय जीन बिेणो तिनै भन्ना लेखिया छ सोहित सजाय गर्नु।

26. हुँदुमले रह्या चौकीको पहारा कसैले हृतियार चलाई चौकीदरालाई कापि तिनै गर्नो भन्ना लगो कारिन्या मानिस नीतिमा तपानि या मारी नागा बाँघसूर पापनि चौकीक्रिया हृतियार चलाउन्ना उन्ना जातामा दामल गर्न जानालाई 29 दामल गर्नु। कारिन्या जातलाई कापि मारिदिनु।

27. हुँदुमले पहारा चौकीको बर्थाका ठाउमा जान हुँदैन भन्ना चौकीदरालाई रोक्दा पहारावाल र चौकीदरामात केहिं बुङकु ताक्षो भन्ना तेसलाई पहारावालार र चौकीदरालाई कापि मारिदिनु। पत्रवात लादैन।

28. लोम्या मानिस कसैले कसैलाई ज्यान मानिको मतलब गरी जहर पुवाउन भनिर तयार हुया र हृतियार लि छिडि गोडा बर्थान्ना उलाई पक्रि साधिन गर्या ज्यान लिख्नार रहेछन भनि भन्ना मानिको मतलब गन्ना सब्रलाई। वर्ष कै द गर्नु। हृतियार चलाई ज्यान बायाको रहेछन भन्ना हृतियार चलाउन्ना हायाकार ध्यान। लामाई रोयाका ध्यान 30 वर्ष क्यू जाति अंगगूको घाडू लामाइ छ या अंगगूक घाडू भन्ना ७ वर्ष २ अंगगूक घाडू भन्ना ८ वर्ष २ अंगगूक घाडू। [MS1 p. 287] यसै रिति दिन बढाई उति वर्ष कै द गर्नु। मतलबमा ज्यान हृतियार तर्थाउन्नालाई ६ वर्ष मात्र कै द गर्नु। जहर भन्ना पुवाईङ्क्यान ज्यान भन्ना मरेनछ भन्ना १२ वर्ष कै द गर्नु। इन्हरुले कैला रुपैया दबलकाहिसावले तिनै भन्ना नगर तिरि ज्यान पाउदैनन। स्वाक्ष किया निति छोडन्ता भन्ना तिछोडन्या अदालत ठाना अमालका हृतियारलाई उद्ध पत्रविका क्रियामोजिम कै द गर्नु। साधिन गर्या ज्यान मर्याको रहेछन भन्ना मतलब दिन्ना र ज्यान मानिकालाई ज्यानको बदला ज्यान मारिदिनु।

29. स्वाधिक मानिस कसैले कसैलाई ज्यान मानिको मतलब गरी जहर पुवाउन तयार हुया र हृतियार लि छिडि गोडा बर्थान्ना उलाई पक्रि साधिन गर्या ज्यान मारीको रहेछन भनि भन्ना मानिको मतलब गन्ना यसै स्वाधिक मानिस सब्रलाई। वर्ष कै द गर्नु। हृतियार चलाई ज्यान बायाको रहेछन भन्ना हृतियार चलाउन्ना हायाकार ध्यान। लामाई रोयाका ध्यान ३ वर्ष मात्र कै द गर्नु। मतलबमा ज्यान हृतियार तर्थाउन्नालाई ६ वर्ष मात्र कै द गर्नु। जहर भन्ना पुवाईङ्क्यान ज्यान भन्ना मरेनछ भन्ना १२ वर्ष कै द गर्नु। इन्हरुले मार्कस रुपैया क्रिया सङ्गि सहियाहले सतछ्न भनि पसान सतरर ज्यान पयाउदैनन। रुपैया रुपैया सल छोड्न। सत छोडन। अदालत ठाना अमालको हृतियारलाई उद्ध पत्रविका क्रियामोजिम कै द गर्नु। स्वातिन गर्या ज्यान मर्याको रहेछ भन्ना मतलब दिन्ना र ज्यान मानिकालाई ज्यानको बदला ज्यान मारिदिनु।
हाकिमलाई उद्धित पत्रका कैदमोजिम कैद गर्नु। साबित गर्दा ज्यान मायको रहेछ भन्या समयमा दियर र ज्यान मायको स्वाभिमान स्मरित भएको छ। 

30. ज्यान जन्या तकिसर मन्त्र युतविष्करको ज्यान मायको पर्दाको ज्यान कातिन्दु। कि फारी दिन तू थोक सजाल गरी ज्यान नमाल्न। यति २ कुरौवो बाह्रक अरु सजाल गराद ज्यान मायको बिजलाई १,०००० रुपैया जरीवागर गर्नु। 

31. कैसलै वे कैसलै छुरा हुन्गा लिड्छ हात लात गैहले कुटिपट गर्न। कुटिपटिको माथी बिल्कुल मुन्ना कमाकार गर्न लायो पछि अरु व्या लागि २ दिन भिभिभ मयाः भन्दा आफ्नो कालले मर्यादाको ठहर्न। कुटिपटालाई ज्यान मायको तकिसर लादेन। कुटिपटा का एनवित्समिंश ढंड सजाल गर्न। 

32. कोह्र वाईलिन्स धिरी पीहरी दिनाः वौला सापो झोंझांग फुल रयो व्याल कोसिक्स छ्यागान्स र गैडापाडिमा पांसो लोटिन बिण्ड हुन्ते लिड्छ मयाः अरु व्या आफ्ने बाँधालाई लिड्छ बिप्नु मयाः अरु व्या फाले पाटो लाई बा ह्तिसयार चलाई ह्तला गरी मयाः अरु बाँध लाई लोटिन भाटां समित्त लिड्छ मयाः अरु आफ्ने जर्न व्या वाटो लाई अवन्त लासु निजसयार पाटो वेरोम भन्दा मयाः भन्दा बन जादा। (३) ढुंगो लक्याको लागि मयाः अरु बाँधलाई केवा चाह जादार तमले मयाः व्या सुयवोको सुवृ तू मयाः अरु जसले ह्तिसयार चलाई काडी मार्टिन्दाया। ३२ मयाः धृढ़ विन्होलाई मयाको वलिस्मिता रिस [३२] ले अथो नगाई फलानाले मयाः भन्दा थोलोअर भन्दा जसलाई फोल्किन्द को पुनराला लागि बन भन्दा साफी गुहाई देखाउने साफी गर्न सक्नु बिहिलम्याको विन्होलाई कालले मयाको र आफ्ने ह्तला गरी मयाको वा अरुले मयाको दैभार्न परि अरुमत मयाको ठहर्नु र भन्दा मयाको भनि मयाको झुम्नौ अरु भन्दा मयाको झुम्नौ भन्दा मयाको झुम्नौ वस्थापन तेस्ता फोल्किन्दा ५ वर्ष कैद गर्नु। म्याको देखार दिया पानी जि नद्दातै। कैद गर्नु। अरु ह्याको मन्त्रिने मयाको विन्होलाई कुरा पोलको रहेछ भन्दा साबित गर्न सक्नु भन्दा तेस्ता पोलका स्वाभिमान मयाको रिस [३२] ले अथो नगाई फलानाले मयाः भन्दा थोलोअर भन्दा जसलाई फोल्किन्द को पुनराला लागि बन भन्दा साफी गुहाई देखाउने साफी गर्न सक्नु बिहिलम्याको विन्होलाई कालले मयाको र आफ्ने ह्तला गरी मयाको वा अरुले मयाको दैभार्न परि अरुमत मयाको ठहर्नु र भन्दा मयाको झुम्नौ अरु भन्दा मयाको झुम्नौ वस्थापन तेस्ता फोल्किन्दा २॥ वर्ष कैद गर्नु। म्याका रैप्याई देखार दिया लिर प्रादितित। 

33. कैसलै कैसलै कुटिपट गरियो कुटिन्या मानविन्स बिहिलम्याको थियेन वा थिलिको भो कामास लायोको थियो कुटिकाको २२ दिन नास्थापन्धि अरु व्या लागि मयाः भन्दा पछि तनी कुटिका परिले २२ दिनमिथिभ भन्दा थोलोको रोक्कार गर्न। २२ दिन नास्थापन्धि मयाको ठहर्नु भन्दा अरु कुटिपट हुन्दा वस्थान्तम मयाको हो उद्दीकत तू मयाः गरी पोल्या पोलकालाई १॥ वर्ष अरु भन्दा मयाको कुरा बढाउने पोल्या पोल्या २॥ वर्ष कैद गर्नु। म्याका रैप्याई देखार दिया लिर प्रादितित। 

34. ठुंड जना मानसमूह मात्र पर्देस ग्या वा लेका गैहामा ग्या थियो तेसमा पोलो तू थमरका रस्ता हिङ्गा परी [३६] पेलेदा ढुंगो मुहो लागि लिड्छ बिण यसी भयामा ह्वस अरुयप्त भयामा ह्वस यक जना मयाः स्रग जान्योले मन्त्रिका धरमा आह वस्ता परिले फलान्त मयाः भनि तुनायो मयाको जहालयो संका गरी रैसले दस।
गरी हाम्रा फलानालार्छ मौरियो भनि कराउन आयो रोककार गर्दै सार्थ गुहावाट भयो अथवा २ जनाको इत्वि लाम परियोल्लादिहै देखिएन आफ्ना कालमध्ये मूलको हट्यो भन्न्यारू २ जनामै भ्राताका संकायमा पौलियोको रहेछ भन्न्या घरका जहानले रहेछ भन्न्या घरलाई देखेन। अर्को रिस्ले पौलियोको रहेछ भन्न्या तेस्ता पौलियोलालालार्छ २॥ वर्ष कै मौन।

म्याका रुपथया डबहिद दिया लिहिने मुदैङ्दु। अरु स्वि भए सार्थ भयो १॥ वर्ष कै मौन।

३५। जाड राक्स अरक अफिम भाग ध्रुवो गैह लागु कुरो पाई अर्कालामै गालिगौ दुरुपित्त गर्वी रहेछ भन्न्या अंबिगुका एन्वियामोजिम जस्ता दंड गर्नु। ज्यामै रामेछ भन्न्या मुदियान्या जात भया एन्वियामोजिमको अंस सर्वने गरि दामल गर्नु। कातिया जात भया ज्यानाको वदल ज्यान काति मारिदिन।

३६। कोसह श्रीलापाको मानिसले मानिस भए लो श्रीलापाको मानिस गत्त्या तनाया कुराको थाहा पनि पाउदै रहेछ जात जान्या अभक्ष गैह पनि पाउदै रहेछ निर्वा भने हिहिदौ पनि रहेछ भन्न्या एन्वियामोजिम अंस सर्वने गरि दामल गर्नु। गत्त्या [MS1 p. 289] तनाया कुराको पनि थाहा पाउदै रहेछ अभक्ष गैह पनि पाउदै पनि रहेछ निर्वा भने हिहिदौ पनि रहेछ भन्न्या तेस्ता श्रीलापाले मानिस मानिस मुदियान्या जातलाल एन्वियामोजिमको अंस सर्वने गरि दामल गर्नु। कातिया जातलाल ज्यानको वदल ज्यान काति मारिदिन। अरु अभक्ष गैह पाउदै पनि रहेछ आफ्नो मानिसु मानिस पनि अभक्ष गैह पाउदै दुरो भन्न्या पनि तेस्ता ज्यानको वदल ज्यान काति मारिदिन। कुटिलाको ज्यान मूलको रहेछ भन्न्या कुटिलाको एन्वियामोजिममा दोवर दंड कै मौन।

३७। कोसह मैैलेका आँख्या पलट्या रोगले पक्सको रहेछ वा जरो अभिमार आउ राग पार पुन श्रीकी ३८ गैह वेया लाम्याले रहेछ लट्ट नपो ठाकु लागि वा अभिवाद अरकी क्स्तले कुटिल्क गरी थलियाको रहेछ भन्न्या लक्ना गैह रोगले काम गर्न नसक्पा गरि थलियाको रोपिलाको क्स्तले कुटिलक गरि ज्यान मरेछ भन्न्या यक थन दाँहायाको भन्ना पनि तेस्ताले मानिसको ठहर्नु। रोगले मानिसका ठहर्नै। मानिस मुदियान्या जात भया एन्वियामोजिमको अंस सर्वने गरि दामल गर्नु। कातिया जात भया ज्यानको वदल ज्यान काति मारिदिन। कुटिलाको ज्यान मूलको रहेछ भन्न्या कुटिलका एन्वियामोजिममा दोवर दंड कै मौन।

३८। कोसह पारिवारिक ३९ भै ओछ्यानमा पनि गरी थलियाको रोपिलाको क्स्तले कुटिलक गरी ज्यान मूलको भन्न्या यक थन दाँहायाको भन्ना पनि तेस्ताले मानिसको ठहर्नु। रोगले मानिसका ठहर्नै। मानिस मुदियान्या जातलाल एन्वियामोजिमको अंस सर्वने गरि दामल गर्नु। कातिया जातलाल ज्यानको वदल ज्यान काति मारिदिन। कुटिलाको ४० ज्यान मूलको रहेछ भन्न्या कुटिलका एन्वियामोजिममा दोवर दंड कै मौन।

३९। क्स्तले अथ यकाले कुटिलक गर्वको रहेछ कुटिलको दर निको नभै तेस्ते कुटिलको मौरिसलालादिहै श्रीलादिहै ८ विहिदैङ्द दिन ४१ २२ दिनभिधमा अरकी क्स्तले

37 MS1 mudimā.
38 MA-ED2 vāki.
39 MA-ED1 khatirā paṭirā.
40 MS1, MA-ED1 kāṭinyāko.
41 MA-ED1 ghaḍi-pachi-deṣi; MA-ED2 ghaḍi pachi deṣi.
The MA-ED1 and MA-ED2 extend up to section 41, while the MS1 only goes up to section 40.
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संपादन द्वारा कृत ज्ञानप्रदानपूर्वक भाषा होने की उचितता की विद्यमान निर्देशित परामर्श की जरूरत है।

[1] पहरामा मिच्छाको

1. [MS2 p. 514] सक्षरता व्यक्ति पहरा बक्सी ज्ञानामा पहरा बक्सी हुक्कले र कमानलेआ ज्ञानमा पहरा बक्सी नवग जिनीस चणीया मानीसको पहरा बक्सी ओ रमन बिक्स्मा बहसी मानीसँलाई कसैले बंदूक तिर हितियार चलायो र चाँद लागी पालो बक्सीको ज्ञान मरेछ भन्दा पनी मरेछ भन्दा पनी तेस्ता हितियार चलाउन्ना गैटे ज्ञान मारिदिदू। रात्रिहरू साको भया पति कालिदिदु। हितियार भन्दा घायल्ने राम आयाको रहेछ भन्दा दामल गर्नु।

2. हुक्कले रह्याको बाँकी पहरामा कसैले हितियार चलाउ चौकी दरम्यान काटि चिन्तियो भन्दा त्यो काटिया मानीस मरोस्त पनी चिन्तिया हितियार चलाउन्ना ज्ञानका सजायमा दामल गर्न जालाई दामल गर्नु। (र) काटिया जातलाई काटि मारिदिदू।

3. हुक्कले पहरा बाँकी बस्याको ठाउमा जान हुदैन भनी चौकीकोण र पहरावलाई रोक्छ दरम्यान चौकीमा हितियार चलाउन्ना ज्ञानको िजयानको िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका िजयानका जरून िजयान कर्किरी गर्नु।

4. लालमोहोर दस्तहरे अंदेशी बंद भन्दा बाटामा जस्ते पुस पाइ पर्यायमा माया बोलिडाजिया पक्व लागी ज्यामायाः मानीस उमकाउछ उमकाउछ दामल गर्नू। चौरि गरि आउन्ना उमकाउछ भन्दा जति चौरि गरि भायाको छ उमकाउन्नाउँ मन्त्र उबै बिगौ झू। चौर फेल्या पति भन्दा तेनी बिगौ एवेर उठाउने भनी सोहीतिनु। अर कृौि गरि भायाकाउछ उमकाउन्नाउँ भायाकाउछ जीन सजाय जीन बिगौ तिरी भनी लेपियाको छ सोही सजाय गर्नू।

[2] [MS2 p. 515] भविष्यार्थर परिव ज्ञान मार्यामा र घा लायामा गर्नू एवं

5. रातका विचार जनावृहर केही भति हाँदा मानीसिलाई लागै मर्यामा भन्दा मर्यामको र मर्यामको अर्थप्रतिको ज्यू ढूंढमुः व्याकरण जौंपंजाय कैह केही कुरा को पति इति लाग झगडा पयाको रहेछ भन्दा भोर उड्याउने हांदा ज्ञान मार्यामको बात लागदेन। हांदायावार्त मर्यामको क्रियार्थ ५५ रूपाई विलाल मार्यामा १ तिर्थ गराइ औढ़लावट १५ दोमवारट १० सम्वारट ५ चाहरावारट ३ रूपाका दरेले धर्माधिकारालाई दोदाल विलाल भोरमा ज्ञान मार्यामाकु पतिया गराइदिदू।

6. जंगलमा सिक्या फेल्या बनको मूँ हो जनावृह हो भनि तद्यतित न्यारि बंदूककाउछ हाँदा मानीसिलाई लागै मर्यामा भन्दा मर्यामको र मर्यामको अर्थप्रतिको इति लाग केही पयाको रहेछ भन्दा भविष्यार्थ ०५। हांदायावार्त मर्यामको क्रियार्थ

43 MA-ED3 ainabamojimko अंशासरसवा गैर दामाल गर्नु।
44 MA-ED3 marostā।
45 MA-ED3 ainabamojimko अंशसरसवा गैर दामाल गर्नु।
46 MS2 caukidātamāthī।
47 MS2 jhaga।
५० रुपया दिलाई। ज्ञान मार्था को बात लाडै। यह शर्म को घृङ्गछ डा मात्र लागेछ भन्न घाँप्च १० रुपया होन्यावाद होन्यावाद। रू हाल लाडै।

3. पुस्तकालिन हाँदा फण्डुलहर जान मनि धुःका लट्टा जद्दालने हांदा मानसिकालाख्त लामी मन्नांग्नया भन्ना मार्था को र मान्याको अथापविष्ट्को कोट्ट मित्तालाग केही पर्वको र्खेछ भन्ना भवित्त्व ठहर्छ। ज्ञान मार्था को बात लाडै। होन्यावाद कृम्याप्च ५० रुपया दिलाई। ज्ञान मार्था को घृङ्गछ डा मात्र लागेछ भन्न घाँप्च १० रुपया होन्यावाद ५० रुपया होन्यावाद अरु बात लाडै।

4. सहर-गाौभित सहर-गाौका नजीक मानिस हिडन्या हुलन्या जया गल्लि बाटामा मानिस नहुठाहु ५१ गोलिको टपू बाँध्य तज्रिज नरानी हांदा मानसिकालाख्त लामी मन्ना भन्ना मार्था को र मान्याको ५२ अथापविष्ट्को मन्नांग्नया केही पर्वको र्खेछ भन्ना भवित्त्व ठहर्छ। होन्यावाद कृम्याप्च ५३ १०० रुपया दिलाई। ज्ञान मार्था को बात ५४ लाडै। ज्ञान ५५ मार्थाको घृङ्गछ घा(उ) मात्र लागेछ भन्न घाँप्च ५० रुपया दिलाई। ज्ञान अरु बात ५६ लाडै।

5. घृङ्गन कमान चंदुक पेतवल हालदा तिर काठ गोल्लि टपू खामो (अथवा) मार हांदा खुँकुरी तत्त्वार भाभि ५७ खुँकुरी (बा) उद्विष्ट्क मानसिकालाख्त लामी मन्ना ग्नया भन्ना मार्था को र मान्याको अथापविष्ट्को इव लाग केही पर्वको र्खेछ भन्ना भवित्त्व ठहर्छ। होन्यावाद ५० रुपया कृम्याप्च ५८ दिलाई ५ रुपया गोदान धर्माधिकाराकार दिलाई पतिता गराई। ज्ञान मार्था को बात लाडै। ज्ञान मार्थाको घृङ्गछ डा मात्र लागेछ भन्न १० रुपया घाँप्च दिलाई। अरु बात लाडै।

6. [MS2 p. 516] रू पुढो काठया बज्ञया ५९ पुढ्रो पुर्णमा चुपी (इत्यादि) पुढ़ी मानसिकालाख्त लामी ज्ञान मन्ना भन्ना मार्था को र मान्याको अथापविष्ट्को इव लाग केही पर्वको र्खेछ भन्ना भवित्त्व ठहर्छ। होन्यावाद २० रुपया कृम्याप्च ५५ दिलाई ५ रुपया गोदान धर्माधिकाराकार दिलाई पतिता गराई। ज्ञान मार्था को बात लाडै। ज्ञान मार्थाको घृङ्गछ डा मात्र लागेछ भन्न ५ रुपया घाँप्च दिलाई। अरु बात लाडै।

7. काठाको ६२ रू ढली हाँगा काठया हाँगा पसिम मुढो गीडदा मुढो ढली ६३ उद्विष्ट्क काठ पिञ्छादवा लठादवा काठले मिथि रू ढालदा काठ पिञ्छादवा झोरिया बारि ६४

48 MA-ED3 omits koi.
49 MA-ED3 kriyākharca.
50 MS2, MA-ED3 omit hāṃnyāvāta.
51 MS2 nahatāi.
52 MS2 māko.
53 MS2 kriyākharca.
54 MS2 bāṭa.
55 MA-ED3 omits jyāna.
56 MS2 bāṭa.
57 MS2, MA-ED3 bhācai.
58 MA-ED3 kriyākharca.
59 MS2 becaro.
60 MA-ED3 kriyākharca.
61 MA-ED3 dharmādhikārālāi patiyā garāi patiyā garāidinu.
62 MS2 kāṭyāṃko.
63 Emend. dhali; MS2 dhali; MA-ED3 dhali.
64 MA-ED3 bābari.
जोतपन गद्वार बाटो कुतो घर देबल बनाउँदा काहल्ला 65 फाउर्डा जुगा डर्ल्लो डट 66 काँठ ललHAS घाम्न 67 नक्री धरको 88 लब्दी पुस्तक मानिसमालू लागी मयौं भन्या र चौपायालाई लागी मयौं भन्या मन्त्याङ्की र मान्याङ्की अथिपधिच्छ इवि लाग केहि पयाङ्को रहन्छ भन्या भवितय ठहरौ। लडाउन्ताले कुयाच्व 69 दिन पर्दैन पतिया गर्नु पनि पर्दैन। खतबात पनि केहि लाग्दैन।

8. लोम्याबाल्ली केटाकेटिहलाई लिथो पोला जगणर तार्ड 70 तार्ण्याङ्का बल्ले नपुग्री घाम्न नक्री हाम पुस्तक कोलामा लहडी बगी डुवि मानिस मयौं भन्या पोलो तार्ण्याङ्को र मान्याङ्को अथिपधिच्छ इवि लाग केहि पयाङ्को रहन्छ भन्या भवितय ठहरौ। समावरत तार्ण्यालाई पनि पर्दैन। क्रियाखेत्र दिन पति गर्नु पनि पर्दैन।

9. 8. सर्कर्काका दुखमले परापुवेद्यी वन्द भयाको गोडा वाटामा र गडी किल्लमा ठापिकाको सोला पहाड़ सोला फडक्कया 71 दर्जनौ धराग गैह्मा मानिस चौपाया गैह परि मयौं भन्या धापन लाउन्या धापन्या करैलाई केहि पतल लाग्दैन कुयाच्व 72 गर्नु पनि पर्दैन। प्रामाण्य दद दद पतिया केहि पर्दैन।

1०. बाथ भालू बदेल गैह्मले मानिस चौपाया भवितयहरू केहि ही पनाइ सिकार्का निमित गोला गैह केन्द्रे नयाट्नु। सोला धापेछ र तसो सोलामा मानिस परि मयौं धापन गोला धापेन्या अद्वितीय मिल्लो अंस सवर्द्ध गरेको धेरौ दसहि लि उपर सर्वस्त्र मन्त्याङ्को कुयाच्व 74 बापाकु भराइ दि ६ वर्ष रैल नगुन। धापका रैपिया दिया लि क्रियाखेत्र नै क्षत्रीय मन्त्र ५० बलैया घापर्दैन ५० रूपाई बद गर्नु। चौपायाहरु धात परेछ भन्या तसो चौपायाङ्को पंचकृतिमोल 75 वियो धनिलाई भराइ उसी विगमाज्ञिज सवर्द्ध गर्नु।

११. [MS2 p. 517] बाथ 76 भालू बदेल 77 गैह्ले मानिसहरू धापामा गाउ धर्मा उद दि सोला फडक्कया 78 सोला फडक्कया दर्जनौ धराग गैह धापेछ र 79 आफु विकृट वस्याङ्को रहन्छ र 80 तेस्ट उद दियाउँदे बोटेका अह मानिस परि मयौं भन्या सोला धापेन्या अत मयौं धाप्नको कुयाच्व २५ रैपिया भराइ २५ रैपिया बद गर्नु। धाम मरेन धात मन्त्र १२ रैपिया विलालिकृ दद पर्दैन। उद दिया पाउन्या मानिस पयाङ्को भन्या धापर्दैन कुयाच्व 81 पनि केहि ही गर्नु पर्दैन दद पतिया पनि पर्दैन।

65 MS2 kālhā.
66 MS2 ita.
67 MS2 thāmana.
68 MS2 carki.
69 MA-ED3 kriyākharca.
70 MS2 tardā.
71 MS2 phuṭkyā.
72 MA-ED3 kriyākharca.
73 MA-ED3 praścittadaṇḍa pani kehi pardaina.
74 MA-ED3 kriyākharca.
75 MA-ED3 pañcakritimola.
76 MA-ED3 bāga.
77 MS2 badila.
78 MS2 paphyāṅ.
79 MA-ED3 omits ra.
80 MA-ED3 omits ra.
81 MS2 kriyākharca.
१२. वयाघ भयाल्न वदेल गैह्ले मयासनि चरौपयाहरु अन्नवयालीहरु र तेस्न वयास्व मन्यायाको ऐनवमोजी्मको अंि वस््ययाको रहेनछ र तेस्न मयासनिहरु परर म्ययो भन््यया िोलया थयापन््ययालयाइ रूपै्यया कदलयाइकदन्न दण्ड पददैन । उददी पयाउन््यया मयासनि परर म्ययो भन््यया १२ रुपै्यया क ृ्ययाषचया भरयाइ कद ६ वषया कद ६ वषया कदलयाइकदन्न दण्ड पददैन ।

१३. वयाघ भयालु वदेल गैह्ले मानिसहरु चौपार बाटो घण्ड घरमया उददी के ही नदी वयात पध््येरया वयारर करयािया गैह्मया िोलया गैह् थयापेछ र आफ्न  सवकि् पसन वस््ययाको रहेनछ र तेस्न चरौपयाहरु प्ययो भन््यया िोलया थापन्यालाई पतवात लादैन ।

१४. वयाघ भयालु वदेल गैह्ले मानिसहरु घण्ड घरमया उददी के ही नदी वयात पध््येरया वयारर करयािया गैह्मया िोलया गैह् थयापेछ र आफ्न  सवकि् पसन वस््ययाको रहेनछ र तेस्न चरौपयाहरु प्ययो भन््यया िोलया थापन्यालाई पतवात लादैन ।

१५. वयाघ भयालु वदेल गैह्ले मानिसहरु घण्ड घरमया उददी के ही नदी वयात पध््येरया वयारर करयािया गैह्मया िोलया गैह् थयापेछ र आफ्न  सवकि् पसन वस््ययाको रहेनछ र तेस्न चरौपयाहरु प्ययो भन््यया िोलया थापन्यालाई पतवात लादैन ।

१६. वयाघ भयालु वदेल गैह्ले मानिसहरु घण्ड घरमया उददी के ही नदी वयात पध््येरया वयारर करयािया गैह्मया िोलया गैह् थयापेछ र आफ्न  सवकि् पसन वस््ययाको रहेनछ र तेस्न चरौपयाहरु प्ययो भन््यया िोलया थापन्यालाई पतवात लादैन ।

१७. [MS2 p. 518] वयाघ भयालु वदेल गैह्ले मानिसहरु घण्ड घरमया उददी के ही नदी वयात पध््येरया वयारर करयािया गैह्मया िोलया गैह् थयापेछ र आफ्न  सवकि् पसन वस््ययाको रहेनछ र तेस्न चरौपयाहरु प्ययो भन््यया िोलया थापन्यालाई पतवात लादैन ।

82 MS2 bāga.
83 MS2 banela.
84 MA-ED3 mānisa.
85 MS2 omits danda.
86 MS2 graihra.
87 MA-ED3 omits sava.
88 MA-ED3 kriyākharca.
89 MS2 vakata.
90 MS2 omits vadela.
91 MA-ED3 kriyākharca.
92 MA-ED3 khāecha.
93 MA-ED3 pañca kriti.
[3] [MS2 p. 519] अन्नपानि वनद गरि थुन्याको

१. कसौं गुणा चारी क्षतरमन नसद जवाहर (जगाहेर)को जमीन जागाहेर (जगाहेर)को क्षतरमन कमाराकमारी जाताहात घर बारी मुखो पानी बाडो करणी लिनदीन स्वाणी98 निमित्त झारा मे बंधु पन्नुलाई अन्यायी आफुले पनि पान तन्त्री थुनी त्यो मानिस मयो भन्ना मूल्यासारा जाताहात ऐनबोमोस्मू संस सर्वेस्व गरि दामल गन्नु। स्वाणी99 मानिसले भया सर्वेस्व नगरा दामल गन्नु। काठिन्या जातले अन्यायी वनद गरि थुनी मानिसको रहेछ भया ज्यानको वदला व्यावृ अट विनित। अन्यायी वनद गरि १ दिन १ रात मात्र थुन्याको रहेछ भन्ना ५ रूपैया २ दिनको १५ रूपैया दिन ३ को ३० रूपैया दिन ४ को ६० रूपैया दिन ५ को १२० रूपैया दिन ६ को २४० रूपैया दिन ७ को ४८० रूपैया दिन ८ को ९६० रूपैया दिन ९ को १९२० रूपैया दिन १० को ३००० रूपैया दिन ११ को ५००० रूपैया दिन १२ को ७००० रूपैया दिन १३ को ६००० रूपैया दिन १४ को ७००० रूपैया दिन १५ को ८००० रूपैया दिन १६ को ९००० रूपैया दिन १७ को १०,००० रूपैया दिन १८ को १२,००० रूपैया दिन १९ को १२,००० रूपैया दिन २० को १२,००० रूपैया दिन २१ को १२,००० रूपैया जरिवाना गन्नु। स्वाणी97 मानिसले अन्यायी वनद गरि थुनी ग्यो मयाको रहेछ भन्ना यसको आधी जरिवाना गन्नु। जरिवानाका स्वानि नव्य ऐनबोमोस्मू देद गन्नु।

२. कसौं सुनाचारी क्षतरमन98 नगदजनिस जवाहर जमाजीमे जौमाया कमाराकमारी जाताहात घरावरी कुलोपानी बाडो स्वानि लिनदीन करनी99 पतविनत्तकानिमित्त झारा२०० मे बंधु पन्नुलाई थुन्याको रहेछ आफो हवस वा उसको हवस अन्यायी पान दियाको रहेछ त्यो मानिस मयो भन्ना त्यो थुन्या मानिसलाई पतवात लाग्दैन। त्यो थुनिन्त्या मानिसलाई थुन्या मानिसले अन्यायी पान दियाको नपाड आफे असतसमा६ पसी मयो भन्ना पनि थुन्या मानिसलाई पतवात लाग्दैन।

३. कसौं सुनाचारी क्षतरमन98 नगदजनिस जवाहर जमाजीमे जौमाया कमारा२०२ करनी103 जाताहात घरावरी कुलोपानी बाडो स्वाणी१०४ पतविनत्तकानिमित्त झारा१०५ मे अन्यायी बांद गरि थुनी राज्यको रहेछ त्यो थुनिन्त्याको मानिस मयो भन्ना थुन्या मानिसलाई दामल छाहया जातॉ१०६ दामल छाह कोटित्या जातॉ१०७ कोटिदौ। कोटित्या र दामल थुन्याको संतानले थुनी मानिसका समानस्म आफा दारोबार नीलीनका रूपैया माल लिन पाउदैन। अन्यायी बांद गरि थुनिन्त्याको रहेछ थुनिन्त्याको ज्यान

94 MA-ED3 jagāhera.
95 MA-ED3 svāsni.
96 MA-ED3 svāsni.
97 MA-ED3 svāsni.
98 MS2 kastamna.
99 MS karaṇi.
100 MA-ED3 jhagadā.
101 MS2 anāsamā.
102 MA-ED3 kamārākamāri.
103 MA-ED3 karaṇi.
104 MA-ED3 svāsni.
105 MA-ED3 jhagarā.
106 MS2 omits jāta.
107 MS2 omits jāta.
मरेन भन्ना ध्यायलाई चुन्नाका दिनदेयिको दिनगतिको जरिवानातिर्यापरेछ। आफ्नो असाधिकारीण हिसाबमोजीमा रूपमा लिन्नु पाएको भएको।

४. अदा गौडा आदर्श सदा सदर दफरद कुमारीचोक अमाल रकम्दार ठेकै इजारामारका कथहोरो आफ्नका घर जगरियाहरुलाई १ दिन १ रात अन्न पान दियको रहेछ भन्ना पट लार्डे। १ दिन १ रात असाधिकारी दुवै थोक बंद गर्न पान नदी ल्याउनको रहेछ भन्ना जगरिया हरूको वनस्पतिको आफ्नो रहेछ भन्ना जगरिया नैवमोजीले कारीगरीलाई तकिसिर लाग्न।

५. जगरिया झुनुवहरूको आफ्ना घरको खानो शाकाहार पनि रहेछ उसको इत्यादि बचायिन्द्रको त्यो जगरिया घरुवहाटको आवतजयावत पनि रहेछ भन्ना तेस्ताले पानिपन पाइत भनी करारो भन्ना तेस्को नालीसुनिदेन। झुनुका कुराको पट लार्डे।

[4] [MS2 p. 520] जगरामा हतियार झिक्कामा र हतियारको बोट लायमान भस्न ऐन। १. ज्यान मान्तको मतलब नयाको अरु कुरामा झगरामा अकोलाय नाशै भनि पूकृि तरवार गुढा कटारि भाला र नयायको पति बन्दुक धनू हातले मात्र समायो म्यान दापाटक झिक्कामा रहेछ भन्ना तेस्तलाई २॥ रूपैयार दंड गर्नु।

२. ज्यान मान्तको मतलब नयाको अरु कुरामा झगरामा अरकोलाय नाशै भनि पूकृि तरवार गुढा कटारि भाला म्यान दापाटक झिक्कामा रहेछ भन्ना र१०९ भयाको बन्दुक सोधयाप्रथम धनू कमान खाल सोधयाप्रथम भन्ना तेस्तलाई २० रूपैयार दंड गर्नु।

३. इनि सरार केही नयाधरो बाटमा हिडदा आफुले भिरियाको पूकृि तरवार धैह हतियारको तुर्यो म्यान दापाटक झिक्कामा रहेछ अरकोलाय धैह गैह्क तोरेको।११० र धालामान हाँलै आयो भन्ना तेस्ता होस नरायीह हतियार झिक्कामा ४ आना दंड गर्नु। कराउन आउने भन्ना वात लार्डे।

४. चालाचल गदु घेल्दा हिडदा अरको ले लायमान हतियार धैह लियाको भिरियाको ठाहा नपाइ पकुडा समाउडा ठाहै हतियारले बाटि कोट लागु भन्ना भवितव ठाहै झिक्कामा वात लार्डेन।

५. सरावा हुंदा हातू भनि हतियारले हातू झिक्कामा रहेछ झिक्कामा होसापो मर्दा ले लाग्न आयो भन्ना होसापो धालामान हाँलै आयो हाँलै आयो होसापो झिक्कामा भान्ना तेस्तलाई ॥ आना दंड गर्नु। कराउन आउने भन्ना वात लार्डे।

६. ज्यान मान्तको मतलब पनि नयाको मारी भनि वाटो गौडा पनि नवर्चान्ता अथिको झिक्कामा पनि केही नयाको हल्टी चौरिकरिक पनि हातू झिक्कामा १११ हाँलै हतियार होसापो झिक्कामा धारालाई २० दंड दूरैः हतियार होसापो झिक्कामा धारालाई । आना दंड गर्नु। कराउन आउने भन्ना वात लार्डेन।

७. ज्यान मान्तको मतलब पनि नयाको मारी भनि वाटो गौडा पनि नवर्चान्ता अथिको झिक्कामा पनि केही नयाको हल्टी चौरिकरिक पनि हातू झिक्कामा ११२ हाँलै जमाजमीका झगरामा भयो मेलाजात्रा भयो करोधर लिनिदिका झगरामा भयो मुनाचारित नयझजिनस कस्तलम जहैवै ल्यालकुट्टा चौपाया दुबापाया गैह्का झगरामा भयो मेलापात कुल नुन धासपाय गैह्का निमिति र स्वासिनिका ११४ निमिति।

108 MA-ED3 thekadāra.
109 MS2 omits bhanyā ra.
110 MS2 omits korecha.
111 MS2 ruciyāra.
112 MA-ED3 omits lāgyāko.
113 MS2 lukīcorikana pani hānyāko lukīcorikana pani hānyāko.
114 MA-ED3 svāsnikā.
झगर भै गलि गोफता कुटिया हुदा रिस धामन नसकी उसे बेलामा मनिस भयाका ठाठमा दिमा हृदियार गैह्ने हा निर्मित मनिस मोर्च भन्दा विविद्यार चलाज मन्याला तन्का [MS2 p. 521] दिन्या जातका लोग्ना मानिस भया ऐनवन्मोजिको अंस सर्वस गरि स्वास्थिक।115 मानिस भगा सर्वस्व नगरि तसै दामल गर्नु। काटिन्या जातका लोग्ना मानिस भया यस्तको बदला यस्तक रामी नरिपिरुङ।

7.116 [MA-ED3, p. 85] यस्तक मनिको मतलब पनि नगर्याका मारी भनि बाटो गोदा पनि नवथाया अनिको इवि लाग पनि केहि नर्याको लूकियोरितक हान्याको पनि रहेको जया जिमिन्का जगादामा भयो सुनाचाडि नगदजिनिस कसलतमु ज्याहर लताजक्या चोपाया दुपपाया बुदा भन्दा बुदा दुपपाया गैह र मेलापाय कुला बुदा धारमाप निर्मित र स्वास्थिक निर्मित झगडा भै गलि गोफता कुटिया हुदा रिस धामन नसकी उसे बेलामा मनिस भयाका ठाउमा हृदियार लागा दुपपाया गैह्ने हानेछ र त्यो मानिस मरेन ज्यू जख्म भै काम नलाग्या भयो भन्या ज्यू जख्म गन्ना लोग्ना मानिस भया २४ वष्र स्वास्थिक भया १२ वष्र कैद गर्नु। मन्याका रुपैँ जिथि दिया पनि नलिनु। ज्यू जख्म गराउ मन्याले कुटिया गराँछ पर्नुभएको गालि गोफता गर्नेको भया पनि उसलारु खवावै नदेन।

8. [MS2 p. 521] यस्तक मनिको मतलब पनि नगर्याका मारी भनि बाटो गोदा पनि नवथाया अनिको इवि लाग पनि केहि नर्याको लूकियोरितक हान्याको पनि रहेको जया जिमिन्का जगादामा भयो सुनाचाडि नगद जिनिस कसलतमु ज्याहर लताजक्या चोपाया दुपपाया बुदा भन्दा मेलापाय कुला बुदा धारमाप निर्मित र स्वास्थिक।117 निर्मित झगडा भै गलि गोफता कुटिया हुदा रिस धामन नसकी उसे बेलामा मनिस भयाका ठाउमा हृदियार गैह्ने हानेछ र त्यो मानिस मरेन ज्यू जख्म पनि भयेन घा मात्र नागेछ भन्दा विविद्यार चलाउन्यालाहु धामा धामा बुदा भया भन्दा नाघा १ अंगुलो काम भया नाघा १ अंगुलो काम भया २ अंगुलो काम भया ३ अंगुलो भ्रात्र ठाउमा नलाग्नु। एसह रित्ने निर्मित पनि नलिनु। घया लागाएको नस्ती स्वास्थिक भया २ अंगुलो भया ३ अंगुलो भया ४ अंगुलो भया ५ अंगुलो भया ६ अंगुलो भया ७ अंगुलो भया ८ अंगुलो भया ९ अंगुलो भया १० अंगुलो भया ११ अंगुलो भया १२ अंगुलो भया १३ अंगुलो भया १४ अंगुलो भया १५ अंगुलो भया १६ अंगुलो भया १७ अंगुलो भया १८ अंगुलो भया १९ अंगुलो भया २० अंगुलो

115 MA-ED3 svāsni.
116 The section § 7 is missing in the MS. The 8th passage has been copied after the 6th. The running number given for the passages of this chapter in the MS runs §1, §2, §3, §4, §5, §6 and §8 and so forth. Thus, it is clear that the scribe forgot to copy it.
117 MA-ED3 svāsnikā.
[5] [MS2 p. 522] एकै जनाले मार्ग भन्या मतलब गरिर मानिस मार्थमा सजाय गन्ना्य ऐन्।

9. धनमालका लालचले भयो वा अर के्ही इबिले अकर्षाइ मारी भनि हतियार गैहले हानि रोपी मानिस मार्वा भन्या मान्या नकाटिन्या जातका लोग्या मानिस भया ऐनवमोजिमको अंस सर्वस्व गरिर स्वाणि।

10. धनमालका लालचले भयो वा अर के्ही इबिले अकर्षाइ मारी भनि बंदुक काड सब्र गैहले हानि रोपी मानिस मार्वा भन्या मान्या नकाटिन्या जातका लोग्या मानिस भया ऐनवमोजिमको अंस सर्वस्व गरिर स्वाणि।

11. धनमालका लालचले भयो वा अर के्ही इबिले अकर्षाइ मारी भनि लयाठया ढ्नंगा काड इि चपर धयात्न घ्नग झियार गैहले हयासल इि् मयारं ढ्नंगा गैह्खमारे र त््यो मयासनि मरेछ भन््यया मयाररौ भसन षयाडल्मया हयासल इि् मयारेछ भन््यया मयान््ययाया नकयारिन््यया जयातकया लोग्न््यया मयासनि भ्यया ऐनवमोजिमको अंस सर्वस्व गरिर स्वाणि।

12. धनमालका लालचले भयो वा अर के्ही इबिले अकर्षाइ मारी भनि लयाठया ढ्नंगा काड इट चपरि धातु पुघात्रो झटागा गैहले हानि रोपी वा त्धया मुढाले थिथि मानिस मारिण्या भन्या मान्या नकाटिन्या जातका लोग्या मानिस भया ऐनवमोजिमको अंस सर्वस्व गरिर स्वाणि।

13. धनमालका लालचले भयो वा अर के्ही इबिले अकर्षाइ मारी भनि घोक्रो अख्याइ बाढि झुंडाइ पाओ लाइ सुप्नमा बुको। लाइ मानिस मार्वा भन्या नकाटिन्या जातका लोग्या मानिस भया ऐनवमोजिमको अंस सर्वस्व गरिर स्वाणि।

14. [MS2 p. 523] धनमालका लालचले भयो वा अर के्ही इबिले अकर्षाइ मारी भनि पाओद्याइ हालि इट माटो ढंगा गैहले पुरेछ र त्यो मानिस मरेछ भन्या मारी भनि पाओद्याइ हालि पुर्या्या नकाटिन्या जातका लोग्या मानिस भया ऐनवमोजिमको अंस सर्वस्व गरिर स्वाणि।

122 MA-ED3 svāsni.
123 MA-ED3 svāsni.
124 MS2 bhīda.
125 MA-ED3 bharaśārāmā.
126 MA-ED3 māryo bhanyā.
127 MA-ED3 svāsni.
128 MA-ED3 svāsni.
129 MS2 bajo.
130 MS2 svāsni.
131 MA-ED3 svāsni.
15. धनमालक लालचले भयो वा अर केही इबिले अरकालाई मारूँ भनि गैह्ना
गंगा पोला जयार। इहार पोरि गैह्ना चन्याटि पसाड बमारो व त्यो मानिस
पानै मध्ये घरी दसै अथवा आफै पापा लागी वा अरु ले त्यसँप पापा लागी
दिनभित्र मयाय भन्ना मारूँ भनि पानिमा पसाडाउँ नकाठिन्या जातका लोग्ना मानिस
भया ऐनवमोजीमा अंस सर्वस्व गरि स्वाशिन्याँ भया सर्वस्व नगरि दमल
गर्नू। काटिन्याँ जातका लोग्ना मानिस भया ज्यानको बदला ज्यान दारि मारिदिनु।
16. धनमालक लालचले भयो वा अर केही इबिले अरकालाई मारूँ भनि आँगामा
चन्याटि पसाड रुकाय भरिमा मारूँ भन्ना नकाठिन्या जातका लोग्ना मानिस भया
ऐनवमोजीमा अंस सर्वस्व गरि स्वाशिन्याँ मानिस भया सर्वस्व नगरि दमल गर्नू।
काटिन्याँ जातका लोग्ना मानिस भया ज्यानको बदला ज्यान दारि मारिदिनु।
17. धनमालक लालचले भयो वा अर केही इबिले अरकालाई मारूँ भनि जहर बिष
पुलाय मानिस मयौ भन्ना नकाठिन्या जातका लोग्ना मानिस भया ऐनवमोजीमा
अंस सर्वस्व गरि स्वाशिन्याँ मानिस भया सर्वस्व नगरि दमल गर्नू। काटिन्याँ जातका
लोग्ना मानिस भया ज्यानको बदला ज्यान दारि मारिदिनु।
18. धनमालक लालचले भयो वा अर केही इबिले मयालौ मया बर्ष
भरिमा नकाठिन्या जातका लोग्ना मानिस भया ऐनवमोजीमा अंस सर्वस्व गरि
स्वाशिन्याँ मानिस भया सर्वस्व नगरि दमल गर्नू। काटिन्याँ जातका लोग्ना
मानिस भया ज्यानको बदला ज्यान दारि मारिदिनु।
19. धनमालक लालचले भयो वा अर केही इबिले मयालौ मया बर्ष
भरिमा नकाठिन्या जातका लोग्ना मानिस भया ऐनवमोजीमा अंस सर्वस्व गरि
स्वाशिन्याँ मानिस भया सर्वस्व नगरि दमल गर्नू। काटिन्याँ जातका लोग्ना
मानिस भया ज्यानको बदला ज्यान दारि मारिदिनु।
20. [MA-ED3 p. 89] नम्बरौ। धनमालक लालचले भयो वा अर केही इबिले
मारूँ भन्ने जना धेरै बहिर्भ भड्कासरामा र स्रो भ्रायल कौशि छाना पविकल वैवस्त
चन्याटि खमाट मानिस मयौ भन्ना जति जनाका लटै र मानिस भया जहर बिष
पुलाय मयालौ नकाठिन्या जातका लोग्ना मानिस भया ऐनवमोजीमा अंस सर्वस्व गरि
स्वाशिन्याँ मानिस भया सर्वस्व नगरि दमल गर्नू। काटिन्याँ जातका लोग्ना [मानिस]
भया ज्यानको बदला ज्यान दारि मारिदिनु।

132 MS2 bile.
133 MS2 gaihra.
134 MS2 jaghāna.
135 MA-ED3 svāsni.
136 MA-ED3 māraun.
137 MS2 dherai.
138 MA-ED3 svāsni.
139 MS2 dherai.
140 The sections §§20–29 are missing in the MS2.
२१ नम्बरको। धमालका लालचले भयो वा अर केही इविले मारी भनि धेरे जनामिलि लागा हुँगा डट चरपरि काठ धातु हटारा गैह र पूर्वार्थ गैहि नाउ सबि या पत्थर मुडाएले भनि मानिस मारी भन्ना जनाले हात छोडि मारको छ उति जनालाई नकारियाँ जल्याला लोम्न्याला मानिसं भया ऐनवौमोजिम्याको अंश सर्वक्ष गरि ख्याति मानि सर्वक्ष नगरि तेसै दामल गर्दू। काफिन्या जल्याला लोम्न्याला मानिस भया ज्यानको बदला ज्यान काटि मारिदितु।

२२ नम्बरको। धमालका लालचले भयो वा अर केही इविले मारी भनि धेरे जनामिलि गैहाला खोला दनार पोखरि साउ झोलाला तिर ज्याडि जंगार गैहमा ख्याट बाहिरियाँछन् र ल्याउ मानिस पात्रको छुँदि वगि मरियो अथवा आफे पाखा लागि अलियो लसिक पाखा लाइ २ दिन पिनिया मयाँ भन्ना जति जनाले मारी भनि समाति थोकारि ख्यात ज्यान मारको छ उति जनालाई नकारियाँ जल्याला लोम्न्याला मानिसं भया ऐनवौमोजिम्याको अंश सर्वक्ष गरि स्वाच्छ मानिस भया सर्वक्ष नगरि दामल गर्दू। काफिन्या जल्याला लोम्न्याला मानिसु भया ज्यानको बदला ज्यान काटि मारिदितु।

२३ [MA-ED3 p. 90] नम्बरको। धमालका लालचले भयो वा अर केही इविले मारी भनि धेरे जनामिलि धौको अखाड़ वा वार्षि वा झुण्ड वा पामो लाइ वा झुकमा बुझो लाइ मानिस मारी भन्ना जति जनाले झाँसि परको छ उति जनालाई नकारियाँ जल्याला लोम्न्याला मानिसु भया ऐनवौमोजिम्याको अंश सर्वक्ष गरि स्वाच्छ मानिस भया सर्वक्ष नगरि दामल गर्दू। काफिन्या जल्याला लोम्न्याला मानिस भया ज्यानको बदला ज्यान काटि मारिदितु।

२४ नम्बरको। धमालका लालचले भयो वा अर केही इविले मारी भनि धेरे जनामिलि खाड़मा हाँलि माटो डट चरपरि गैहि पूराँ पार्थियाला मानिस मारी भन्ना जति जनाले मसाति खाड़मा हाँलियो पुर्याको छ उति जनालाई नकारियाँ जल्याला लोम्न्याला मानिसम्या भया ऐनवौमोजिम्याको अंश सर्वक्ष गरि स्वाच्छ मानिस भया सर्वक्ष नगरि दामल गर्दू। काफिन्या जल्याला लोम्न्याला मानिसु भया ज्यानको बदला ज्यान काटि मारिदितु।

२५ नम्बरको। धमालका लालचले भयो वा अर केही इविले मारी भनि धेरे जनामिलि आगामा चयाडियाँ ख्याट स्वाक्षु एवं मारी माराले आगाम मेकाजु बेलाया र वैद्यबारा जति जनाले समाति छुँदियो छ उति जनालाई नकारियाँ जल्याला लोम्न्याला मानिसम्या भया ऐनवौमोजिम्याको अंश सर्वक्ष गरि स्वाच्छ मानिस भया सर्वक्ष नगरि दामल गर्दू। काफिन्या जल्याला लोम्न्याला मानिसु भया ज्यानको बदला ज्यान काटि मारिदितु।

२६ नम्बरको। धमालका लालचले भयो वा अर केही इविले फलालाई वार भनि मोखेर भै बचन दिव्य र उक्ता आजाले अर गै मानिस मारेर भया मोखेर भै मार भनि बचन दियालामा मार्याघुला झाडुभनी मयालाला मयान्को भया पनि नम्नाला मयान्को भया पनि नकारियाँ जल्याला लोम्न्याला मानिस मयान्को अंश सर्वक्ष गरि स्वाच्छ मानिस भया सर्वक्ष नगरि दामल गर्दू। काफिन्या जल्याला लोम्न्याला मानिस भया ज्यानको बदला ज्यान काटि मारिदितु।

२७ नम्बरको। धमालका लालचले भयो वा अर केही इविले माको [MA-ED3 p. 91] नाको मनकलम पसिम डालालाई मसातिदिया र वैवद्य गरि मानिस मरालायाँछन् भया मारालाई थोकारि दियाला मसातिदिया बाँधिरियाँहाँर जति जनाले छन् उति जनालाई नकारियाँ वही मारिदितु।

141 MA-ED3 māridirnu.
जात्का लोग्न्या मानिस भया ऐत्य्मोजिमको अंश सर्वस्व गरी स्थान्न मानिस भया सर्वस्व नगरि दामल गर्न्छ। काटिन्या जात्का लोग्न्या मानिस भया ज्यानको बज्या ज्यान काटि मारिदिन्।

२८. धन्मल्का लालचले भयो वा अरु केहि दबिले मानाका मतलबमा पस्ती मार्तलागाउँछ बन्दुकै पाइ काङ ज्ञात भयो अरु भयो शाउका समेत ज्ञात हितियार नन्तलागाउँछ मोख्य भय मार भनि वज्य राखेको हितियार ज्यै ज्ञानी मार्तलागाउँछ भनि हितियार बन्दुकै पाइ काङ ज्ञात भयो अरु मरायाको छ उत्ति जनालाग नकाटिन्या जात्का लोग्न्या मानिस भया ऐत्य्मोजिमको अंश सर्वस्व गरी श्यासनि मानिस भया सर्वस्व नगरि दामल गर्न्छ। काटिन्या जात्का लोग्न्या मानिस भया ज्यानको बज्या ज्यान काटि मारिदिन्।

२९. मार्त्या ताहि मार्तिन्यले फलानालाग मार्त्या हितियार बन्दुकै काङ देब भनि उल्ले भन्या फलानालाग मार्त्या मन्त्यालाग हितियार भनि१४२ दबिए भयो शाउका छेनेद भन्या पनि तिनेले हितियार ज्ञात यज्ञ मरायाको ठहरनि नकाटिन्या जात्का लोग्न्या मानिस भया ऐत्य्मोजिमको अंश सर्वस्व गरी श्यासनि मानिस भया अरु सर्वस्व गरी दामल गर्न्छ। काटिन्या जात्का लोग्न्या मानिस भया ज्यानको बज्या ज्यान काटि मारिदिन्।

३०. [MS2 p. 526] धन्मल्का लालचले भयो वा अरु केहि दबिले मानाका मतलबमा पस्ती मार्त्यालाग भागना उल्ला भन्या मरायाको भनि गर्भित ज्याल होका कुटिज्ञेक भया गर्भास्ति हितियार मरायाको पनि मार्त्यालाग ज्याल होका कुटिज्ञेक भया गर्भास्ति हितियार ज्यै मार छन उत्ति जनालाग लोग्न्या मानिस भया ऐत्य्मोजिमको अंश सर्वस्व गरी दामल गर्न्छ। स्वाभिम मानिस भया १२ वर्ष काटि गर्न। म्यादको रुपाँति १४४ दबिए दिया पनि नलिनि।

३१. धन्मल्का लालचले भयो वा अरु केहि दबिले मानाका मतलबमा पस्ती मार्त्यालाग भागना उल्ला भन्या मरायाको आगै१४५ भन्या छन भनाजाला गर्भित वाउँक बाहिरै१४६ बाटो गौडा छेनी मानिस मरायाको हितियार छन्। मार्त्याका मतलबमा पस्ती मार्त्यालाग ज्यै मार छन उत्ति जनालाग लोग्न्या मानिस भया ऐत्य्मोजिमको अंश सर्वस्व गरी दामल गर्न। स्वाभिम मानिस भया १२ वर्ष काटि गर्न। म्यादको रुपाँति १४८ दबिए दिया पनि नलिनि।

३२. धन्मल्का लालचले भयो वा अरु केहि दबिले मानाका मतलबमा पस्ती मार्त्यालाग भागना उल्ला भन्या मरायाको अरु दबिए दबिएको हितियार पनि मार भनि वज्य राखेको हितियार पनि नन्तलागाउँछ मार्त्यालाग मरायाको भनि वज्य राखेको हितियार ज्यै मार छन उत्ति जनालाग लोग्न्या मानिस भया ऐत्य्मोजिमको अंश सर्वस्व गरी १२ वर्ष स्वाभिम मानिस भया सर्वस्व नगरि ६ वर्ष काटि गर्न। म्यादको रुपाँति १४८ दबिए दिया पनि नलिनि।

१४२ Emend. bhane.
१४३ Emend. bhayā.
१४४ MA-ED3 rupaiñā.
१४५ MA-ED3 amgamā.
१४६ MA-ED3 bāhiḍa.
१४७ MS2 omits bhanyā.
१४८ MA-ED3 kattī.
33.149 The manuscript section 3, articles 1–4 of Ain 1870—217

34. [MS2 p. 527] The manuscript section 3, articles 1–4 of Ain 1870—217

35. Note that in the MS2 these sections are inverted, i.e., section 34 precedes the section 33 [adapted]. The MA-ED3, however, lists them according to chronological order [discarded].

149 MS2 omits dabala.
150 MA-ED3 basnyā.
151 MS2 dherai.
152 MS2 dabala.
153 MS2 obojīko.
154 MA-ED3 mārecha.
155 MS2 nakāṭī.
मानिस मार्फाको रहेछ भन्ना मानिसका मतलबमा पसि मानिस्ठाउमा स्मेल संस्क जनाया एस्ता मतलबीहरु जति जना छन्न उति जनालाई लोग्न मानिस भया ऐनमोजोनको अंश सर्वस्व गरि १२ वर्ष स्वाक्षि मानिस भया सर्वस्व नगरि ६ वर्ष कैद गर्नु। म्यादका रूपैः कति १५८ दिया पानि नलिन्त।

३९. धनमाल्का लालचले भयो बा अर केही इविले जजहर बिष बुवाइ मार्फ भन्ना मतलबमा मात्र पश्चात मानिस्ठाउमा पनि नजान्ना जजहर बिष पनि नपुहाउन्या मोष्य भै मार्फ भनि वचन पनि नतिङ्या जजहर बिष पनि नदिङ्या अर मतलबीहरुलाई जजहर बिष बुवाइ मानिस मार्फाको रहेछ भन्ना मानिसका मतलबमा मात्र पश्चात मानिस्ठाउमा नजान्ना एस्ता मतलबीहरु जति जना छन्न उति जनालाई लोग्न मानिस भया ऐनमोजोनको अंश सर्वस्व गरि ८ वर्ष स्वाक्षि मानिस भया सर्वस्व नगरि ४ वर्ष कैद गर्नु। म्यादका रूपैः कति १५९ दिया पानि नलिन्त।

४० [MA-ED3 p. 94] नम्बरको। धनमाल्का लालचले भयो बा अर केही इविले मार्फ भनि वचनले टोकेका मानिसस मार्फ भन्ना नकातिया जजाका लोग्न मानिस भया ऐनमोजोनको अंश शर्त सर्वस्व गरि स्वाक्षि मानिस भया सर्वस्व नगरि दामल गर्नु। काटिया जजाका लोग्न मानिस भया ज्यानको बदला ज्यानु काटि मरिङ्यु।

४१ नम्बरको। धनमाल्का लालचले भयो बा अर केही इविले मारर भनि कुकरले टोकेका मानिस मार्फ भन्ना नकातिया जजाका लोग्न मानिस भया ऐनमोजोनको अंश शर्त सर्वस्व गरि स्वाक्षि मानिस भया नगरि दामल गर्नु। काटिया जजाका लोग्न मानिस भया ज्यानको बदला ज्यानु काटि मरिङ्यु।

४२ नम्बरको। धनमाल्का लालचले भयो बा अर केही इविले मारर भनि इतिहार लिनौदी आफ्नो ज्यू वचनका लागि भागि जादा ल्यो [MA-ED3 p. 95] मानिस मिंदै१६१ ब्हुडा वाट खसिम मयो भन्ना डरिे भागि जादा भै ब्हुडा वाट खसि ज्यानु मयोको हुनाले मारर भनि इतिहार लिनौदी आफ्नो तेस्ते इतिहारको चोट लाउन नपायको भया लीका मानिस भया ऐनमोजोनको अंश सर्वस्व गरि दामल गर्नु। स्वाक्षि मानिस भया सर्वस्व नगरि १२ वर्ष कैद गर्नु। म्यादका रूपैः कति दिया पानि नलिन्त।

४३ नम्बरको। धनमाल्का लालचले भयो बा अर केही इविले मारर भनि इतिहार लिनौदी आफ्नो ज्यू वचनका लागि भागि मैै खोलामा फाल्झामेछ र ल्यो मानिस खोलामा इति दिङ बिंग मयो भन्ना डरिे भागि जादा खोलामा फाल्झामा ज्यानु मयोको हुनाले मारर भनि इतिहार लिनौदी आफ्नो तेस्ते इतिहारको चोट लाउन नपायको भया लोग्न मानिस भया ऐनमोजोनको अंश सर्वस्व गरि दामल गर्नु। स्वाक्षि मानिस भया सर्वस्व नगरि १२ वर्ष कैद गर्नु। म्यादका रूपैः कति दिया पानि नलिन्त।

[७] एकै जनाले मारर भन्ना मतलब गरिज्यू जबाम गरायामा सजाए गन्ना ऐन

४४ नम्बरको। धनमाल्का लालचले भयो बा अर केही इविले अरकालाई मारर भनि इतिहार बैहेक हुनेछ रोपेन्छ र ल्यो मानिस मरेन ज्यू जबाम भै काम नलाम्या भयो

158 MS2 kaṭṭi.
159 MS2 kaṭṭi.
160 The sections §§40–49 are missing in the MS2.
161 Read bhīra.
भन्या हान्या लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया सर्वेच्छ नगरि १२ वर्ष कैद गन्न। म्यादका सैंझा कति दिया पनि नलिनु।

४५ नम्बरको न्मवको भयो वा अर केही दिवले अर्कालाउ मारी भनित नल्लुँकै काड सम्ब गैहले हानेहर र त्यो मानिस मरेन ज्यू जयभम भै काम नलाम्या भयो भन्या हान्या लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया सर्वेच्छ नगरि १२ वर्ष कैद गन्न। म्यादका सैंझा कति दिया पनि नलिनु।

४६ [MA-ED3 p. 96] नम्बरको न्मवको दिः म्यादका लालचले भयो वा अर केही दिवले अर्कालाउ मारी भनि भनि भर भड़करामा र रेख ज्याल कौशि छाना पखाल्चाट घंटाटि खराउ लडाउ दियहर र त्यो मानिस मरेन ज्यू जयभम भै काम नलाम्या भयो भन्या लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया सर्वेच्छ नगरि १२ वर्ष कैद गन्न। म्यादका सैंझा कति दिया पनि नलिनु।

४७ नम्बरको न्मवको दिः म्यादका लालचले भयो वा अर केही दिवले अर्कालाउ मारी भनि लाठाहुँगा काठ देट पाहर पुरुषो घटारा गैहले हानेहर र पाथर मुडाले तिबेच्छ र त्यो मानिस मरेन ज्यू जयभम भै काम नलाम्या भयो भन्या मारी भनि हान्या लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया सर्वेच्छ नगरि १२ वर्ष कैद गन्न। म्यादका सैंझा कति दीया पनि नलिनु।

४८ नम्बरको न्मवको दिः म्यादका लालचले भयो वा अर केही दिब्रीले अर्कालाउ मारी भनि आगामा घंटाटि खराउ लडाउ दियहर र त्यो मानिस मरेन ज्यू जयभम भै काम नलाम्या भयो भन्या मारी भनि आगामा हान्या लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया सर्वेच्छ नगरि १२ वर्ष कैद गन्न। म्यादका सैंझा कति दीया पनि नलिनु।

[8] धेरै जनाले मारी भन्या मरो सल्लाह गरी ज्यू जयभम गन्नामा सजाए गन्नाय ऐन।

४९ नम्बरको न्मवको दिः म्यादका लालचले भयो वा अर केही दिब्रीले मारी भनि धेरे जनालो मीली हटियार र गैहले हानेहर र त्यो मानिस मरेन ज्यू जयभम भै काम नलाम्या भयो भन्या जती जनालो चोट्ले ज्यू जयभम भराको छ उसह जनालाउ लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया १२ वर्ष कैद गन्न। म्यादका सैंझा कति दीया पनि नलिनु।

५०. [MS2 p. 530] धनमयालकेम लालचले भयो वा अर केही दिब्रीले अर्कालाउ मारी भनि धेरे जनाने मिलिन बंदरुकै काड सम्ब गैहले हानेहर र त्यो मानिस मरेन ज्यू जयभम भै काम नलाम्या भयो भन्या जती जनालो चोट्ले ज्यू जयभम भराको छ उसह जनालाउ लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया १२ वर्ष कैद गन्न। म्यादका सैंझा कति दिया पनि नलिनु।

५१. [MS2 omits kati] धनमयालकेम लालचले भयो वा अर केही दिब्रीले मारी भनि धेरे जनाने मिलिन वही बंदरुकै काड सम्ब गैहले हानेहर र त्यो मानिस मरेन ज्यू जयभम भै काम नलाम्या भयो हान्या लोग्न्या मानिस भया ऐनवमोजिमको अंश सर्वेच्छ गरी दामल गन्न। खासि मानिस भया १२ वर्ष कैद गन्न। म्यादका सैंझा कति दिया पनि नलिनु।

162 Read amśa sarvasva.
163 Read hatiyāra.
164 MS2 bile.
165 MS2 pā jāsān.
166 MS2 omits kati.
167 MS2 bhiḍa.
र त्यो मानिस मरेन ज्यू जपम् १६८ भै काम नलान्या भयो भन्या मारी भनि जति जनाले समाति यसायाङ्को १६९ छ उँच जनालाई लोग्या मानिस भया ऐनवमोजीमूँको अंस सर्वस्व गरिदामल गन्नु। स्वास्थि मानिस भया १२ वर्ष कै द कै द गन्नु। म्याडका रूपैया कृति दिया पनि नलिनु।

५२. धनमालका लालचले भयो वा अर केही इविले मारी भनि ढेरे जना मिलिन लाण्छ युक्त चपरि काठ धातु जटारो गैह्न र घुणायाङ्को १७० गैह्नले हालेन्छ १७१ बा पत्थर मुड्नले विघ्ने र त्यो मानिस मरेर ज्यू जपम् भै काम नलान्या भयो भन्या मारी भनि जति जनाले हात छोडी ज्यू जपम् १७२ भयाङ्को छ उँच जनालाई लोग्या मानिस भया ऐनवमोजीमूँको अंस सर्वस्व गरिदा दमल गन्नु। स्वास्थि मानिस भया १२ वर्ष कै द कै द गन्नु। म्याडका रूपैया कृति दिया पनि नलिनु।

५३. धनमालका लालचले भयो वा अर केही इविले मारी भनि ढेरे जना मिलिन आयामा घन्नात पराई छ १७३ सेकायाङ्के र त्यो मानिस मरेन गोहारिर पाद र आफै उन्वी ज्यू जकुम भै काम नलान्या भयो भन्या आयामा सेकायाङ्क बेलामा र हालेन्छ वेलामा दति जनाले समायाङ्को छ उँच जनालाई लोग्या मानिस भया ऐनवमोजीमूँको अंस सर्वस्व गरिदा दमल गन्नु। स्वास्थि मानिस भया १२ वर्ष कै द कै द गन्नु। म्याडका रूपैया कृति दिया पनि नलिनु।

५४. धनमालका लालचले भयो वा अर केही इविले फलानालाइ मार भनि मोह् १७४ भै बचन दशेछ र उस्को आफाले भै अस्त ज्यू जपम् गरि काम नलान्या गराई छ्यान बन्या मरेन भन्या मोह् १७५ भै मार भनि बचन दिन्याया मान्या ढाउमा संग गयाको भया पनि लग्नायको भया पनि लोग्या मानिस भया ऐनवमोजीमूँको अंस सर्वस्व गरिदा दमल गन्नु। स्वास्थि मानिस भया सर्वस्व नगरि १२ वर्ष कै द कै द गन्नु। म्याडका रूपैया कृति दिया पनि नलिनु।

५५. [MS2 p. ५३१] धनमालका लालचले भयो वा अर केही इविले मार्नका मतलबमा पसि मार्नालाइ समाति दिन्याया र दाँडीदिन्यालाइ त्यो मानिस मरेन ज्यू जपम् भै काम नलान्या भयो भन्या मार्नालाइ समाति दिन्याया दाँडीदिन्या १७७ जति जनाले छन्त उँच जनालाई लोग्या मानिस भया ऐनवमोजीमूँको अंस सर्वस्व गरिदा दमल गन्नु। स्वास्थि मानिस भया १२ वर्ष कै द कै द गन्नु। म्याडका रूपैया कृति १७८ दिया पनि नलिनु।

५६. धनमालका लालचले भयो वा अर केही इविले मार्नका मतलबमा पसि मार्नालाइ हृदिराि बन्दूक काठ गैह्न दि मान्या ढाउमा समेत जान्या हृदिराि नजलायाङ्का मोह्यव भै मार भनि बचन पनि नदिस्यालाइ मानिस मार्नको रहेन्छ ज्यू जपम् भै काम नलान्या भयो भन्या जति जनाले मार्नालाइ भनि हृदिराि बन्दूक काठ

168 MA-ED3 jakham.
169 For khasālyāko.
170 MA-ED3 ghugyāco.
171 MA-ED3 hānecha.
172 MA-ED3 jya jakhama.
173 For khasāyecha.
174 For mokhya.
175 MA-ED3 mokhya.
176 MA-ED3 ganu.
177 MA-ED3 bāṃdhidinyāharu.
178 MS2 kāti.
कद ज््यू जषम् गरयाखो। १७९ छ उति जनालाई तोग्न्याल मानिस भया ऐनवमोजीमको अंस सर्वस्थ गारी दामल गन्नू। स्वाभिमानिस भया १२ वर्ष कैद गन्नू। म्यादका रूप्याका कृति दिया पनि नलिन्त।

५७. मात्राही मानिसले मूल मालपालाई माछु हतियार वंदुक कात देख भनि उल्ले भंडा फलालाई माध्यम भन्ना ता १८१ हतियार भनि दियेखल मान्याढाउमा आफू ग्याको रहेनछ र काटन्याले ज्याल ग्याको। ५८. मानिस भया भन्ना भतीजीमको अंस सर्वस्थ गारी दामल गन्नू। स्वाभिमानिस भया सर्वस्थ नगरी १२ वर्ष कैद गन्नू। म्यादका रूप्याका कृति दिया पनि नलिन्त।

५८. धनमृतका लालभले भ्यो वा अरु केही इविले मानिका मतिनिमा पस्सा मार्ग लाया भाला उम्का। १८३ भनि परभिर डियाल कोठा लुनिदेखेछ वा भर्याङ्ग जिनिकिर्याएछ र त्यो मानिस मरेन ज्यू जपम् भै काम नलावना भयो भन्ना मानिका मतिनिमा पस्सा डियाल डोका लुनिदिन्या भयाङ्ग जिनिदिन्या जति जना छनू उति जनालाई तोग्न्याल मानिस भया ऐनवमोजीमको अंस सर्वस्थ गारी १२ वर्ष स्वाभिमानिस भया सर्वस्थ नगरी ६ वर्ष कैद गन्नू। म्यादका रूप्याका कृति दिया पनि नलिन्त।

५९. धनमृतका लालभले भ्यो वा अरु केही इविले मानिका मतिनिमा पस्सा मार्ग लाया भाला उम्का। १८४ भनि परभिर बाँकेक बाहरी बादो गौडाङ जेवनीदित्या उज्यो आगमा हातले नसमाउन्यालाई त्यो मानिस मरेन ज्यू जपम् भै काम नलावना भयो भन्ना मानिका मतिनिमा पस्सा बादो गौडाङ जेवनीदित्या जति जना छनू उति जनालाई तोग्न्याल मानिस भया ऐनवमोजीमको अंस सर्वस्थ गारी ९ वर्ष स्वाभिमानिस भया सर्वस्थ नगरी ४ ॥ वर्ष कैद गन्नू। म्यादका रूप्याका कृति दिया पनि नलिन्त।

६०. [MS2 p. 532] धनमृतका लालभले भ्यो वा अरु केही इविले मानिका मतिनिमा पस्सा मार्ग लायादै मानिकाको अरूले देखनु भनि विकट बन्यालाई त्यो मानिस मरेन ज्यू जपम् भै काम नलावना भयो भन्ना मानिका मतिनिमा पस्सा विकट बन्या जति जना छनू उति जनालाई तोग्न्याल मानिस भया ऐनवमोजीमको अंस सर्वस्थ गारी ९ वर्ष स्वाभिमानिस भया सर्वस्थ नगरी ४ ॥ वर्ष कैद गन्नू। म्यादका रूप्याका कृति दिया पनि नलिन्त।

६१. धनमृतका लालभले भ्यो वा अरु केही इविले मानिका मतिनिमा पस्सा मान्याढाउमा संग जाना हात नछोडन्या नछेकन्या विकट पनि नवरुद्ध मोष्य मा भै कार भनि बचन पनि नदित्या हेहरे मात्र रह्यालाई त्यो मानिस मरेन ज्यू जपम् भै काम नलावना भयो भन्ना मतिनिमा पस्सा संग भै हेहरिहर्या जति जना छनू उति जनालाई तोग्न्याल मानिस भया ऐनवमोजीमको अंस सर्वस्थ गारी ९ वर्ष कैद गन्नू। १८५

179 MA-ED3 garāyako.
180 MS2 omits ma.
181 MS2 omits i.
182 MA-ED3 maryāko.
183 MS2 uskalā.
184 MS2 uskalā.
185 MS2 kaṭṭi.
186 MS2 omits kaida garnu.
स्वास्ति मानिस भया सर्वेक्षण गरि 187 ४। वर्ष कैद गर्नु। य्वादका रूप्या क्षति दिया पनि नलिन्।

62. धनमालका लालचल्ने भयो वा अरु केही इकिले मानिका मलवमा पस्याका मार्गी ताउमा नजान्या हृतियार पनि नदिन्या माउथै मा भयो भन्नि बलन पनि नदिन्या एस्ता मलवलिङ त्यो मानिस मरेन जू। जसपू कैम नलान्या भयो भन्ना मानिका मलवमा पनि मलवलिङ जति जना छन्। उन्न जनलाङ लोक्या मानिस भया एनवमोजीको अंस सर्वेक्षण गरि ६ वर्ष यस्त्यि मानिस भया सर्वेक्षण नगरि ३ वर्ष कैद गर्न। य्वादका रूप्या क्षति दिया पनि नलिन्।

63. धनमालका लालचल्ने भयो वा अरु केही इकिले मार्ग 188 भनि सर्पले दोकाएर अरु ल्यो मानिस मरेन जू। जसपू कैम नलान्या भयो भन्ना मारी भनि सर्पले दोकाउन्या लोक्या मानिस भया एनवमोजीको अंस सर्वेक्षण गरि दामल गर्न। यस्त्यि मानिस भया सर्वेक्षण नगरि ४२ वर्ष कैद गर्न। य्वादका रूप्या क्षति दिया पनि नलिन्।

64. धनमालका लालचल्ने भयो वा अरु केही इकिले मारी भनि खुर्दले टोफारै अरु ल्यो मानिस मरेन जू। जसपू कैम नलान्या भयो भन्ना मारी भनि खुर्दले दोकाउन्या लोक्या मानिस भया एनवमोजीको अंस सर्वेक्षण गरि दामल गर्न। यस्त्यि मानिस भया सर्वेक्षण नगरि ४२ वर्ष कैद गर्न। य्वादका रूप्या क्षति दिया पनि नलिन्।

65. [MS2 p. 533] धनमालका लालचल्ने भयो वा अरु केही इकिले मार्ग 190 भनि हृतियार लि लगार्द आफँ। 191 जू। बचानुका लाङी भागी जादा ल्यो मानिस भिङ्द 192 भडियाराहट पासू र ज्यान मरेन जू। जसपू कैम नलान्या भयो भन्ना जू। बचानुका लाङ सागी जादा भिङ्द 193 भर्यारामा 194 पनि जू। जसपू भयानुहोस् उनले मार्ग 195 भनि हृतियार लि लगान्यालाई तेस्ती हृतियारको चोट लाउन नपायाको भयो लोक्या मानिस भया एनवमोजीको अंस सर्वेक्षण गरि १२ वर्ष यस्त्यि मानिस भया सर्वेक्षण नगरि ६ वर्ष कैद गर्न। 196 य्वादका रूप्या क्षति दिया पनि नलिन्।

66. धनमालका लालचल्ने भयो वा अरु केही इकिले मार्ग 197 भनि हृतियार लि लगार्द आफँ 198 जू। बचानुका लाङी भागी गै पोलामा फाल हाल्द अरु ल्यो मानिस मरेन जू। जसपू कैम नलान्या भयो भन्ना जू। बचानुका लाङ सागी भागी गै पोलामा फाल हाल्द जू। जसपू भयानु होनले मार्ग 199 भनि हृतियार लि लगान्यालाई तेस्ती हृतियारको चोट लाउन नपायाको भयो लोक्या मानिस भया एनवमोजीको अंश

187 MA-ED3 nagari.
188 MA-ED3 mārauṃ.
189 MA-ED3 dhannālākā.
190 MA-ED3 mārauṃ.
191 MA-ED3 āphno.
192 For bhīra; MS2, MA-ED3 bhīṣa.
193 MA-ED3 bhīra.
194 MA-ED3 bhadkhārāmā.
195 MA-ED3 mārauṃ.
196 MS2 svāsni mānisa bhayā 6 varṣa svāsni mānisa bhayā 6 varṣa kaida garna.
197 MA-ED3 mārauṃ.
198 MA-ED3 āphno.
199 MA-ED3 mārauṃ.
भागस्व गरिन् २०० १२ वर्ष स्वाध्याय सर्वस्व भयासनि मयासनि भ्यया िवयास्व नगरर २०१ ६ वर्ष कैद गरि०। म्यादका रूपैया कृति दिया पतन नलिनु।

[९] एकै जनाले मारु मन भनि ज्यू जषमु नहन्या कुरो गर्यामा त्यो मानिस दैव संजोगले वा गुहारि पाइ वाच्यामा सजाय गन्न्या अनू।

६७. धनमलका लालचले भयो वा अर केहि २०२ इबिले अर्कालाई मारुः २०३ भनि योग्रो अज्ञातयेत्वै बांधेन्यु दुडाहेत्वै पायस वाच्यपुष्पामु वुजो लाभेत्वै र त्यो मानिस मरेन दैव संजोगले वा गोहारि पाइ वाच्यो भन्या मारी मन भनि एति विष्णु गन्न्या लोम्या मानिस भया एतमोजीमको अन्स सर्वस्व गरि दामल गरि०। स्वाध्याय सर्वस्व भयासनि मयासनि भ्यया िवयास्व नगरर १२ वर्ष कैद गरि०। म्यादका रूपैया कृति दिया पतन नलिनु।

६८. धनमलका लालचले भयो वा अर केहि इबिले अर्कालाई मारुः २०४ भनि पाद्यमा हालि इट माटो इंगा जैहले पुरेछ र त्यो मानिस दैव संजोगले वा गुहारि पाइ वाच्यो भयासनि मारुः २०५ भनि पाद्यमा हालि पुत्र्या लोम्या मानिस भया एतमोजीमको अन्स सर्वस्व गरि दामल गरि०। स्वाध्याय मानिस भया सर्वस्व नगरर १२ वर्ष कैद गरि०। म्यादका रूपैया कृति दिया पतन नलिनु।

६९. धनमलका लालचले भयो वा अर केहि इबिले अर्कालाई मारुः २०६ भनि गैह्न्या गंगा पायो जंगाह इनार पोपिर गैह्न्या चर्चाटि पसाइ बगाइदियो र त्यो मानिस अफे उद्धि पापा लाभ्या२०७ अथवा अरुले जिक्ये २०८ पापा लाठ पानि पाप्याको तह्या२०९ ढिन भित्र मरेन वाच्यो भन्या मारी मन भनि [MS2 p. 534] पानिमा पसाउः लोम्या मानिस भया एतमोजीमको अन्स सर्वस्व गरि दामल गरि०। स्वाध्याय मानिस भया सर्वस्व नगरर १२ वर्ष कैद गरि०। म्यादका रूपैया कृति दिया पतन नलिनु।

७०. धनमलका लालचले भयो वा अर केहि इबिले अर्कालाई मारुः २१० भनि जहर विष पुजायेत्वै र पायाको ज्यान मरेन वाच्यो भन्या मारी मन जहर विष पुजाउः लोम्या मानिस भया एतमोजीमको अन्स सर्वस्व गरि दामल गरि०। स्वाध्याय मानिस भया सर्वस्व नगरर १२ वर्ष कैद गरि०। म्यादका रूपैया कृति दिया पतन नलिनु।

[१०] मारी मन ढेरे जनाले मतो सल्लाह गरि ज्यू जषमु नहन्या कुरो गर्यामा त्यो मानिस दैव संजोगले वा गुहारि पाइ वाच्यामा सजाय गन्न्या एन।

७१. धनमलका लालचले भयो वा अर केहि इबिले मारी मन ढेरे जनानिस गैह्न्या गंगा पोला जंगाह पाटी २१० इनार पोपिरिसापु झोलिङ्गा तिरमा पसाइ बगाइदियाछनु।
र त्यो मानिस आफै पापा लाम्यो अथवा अरुले पापा लाई पानि 211 पापाको तहर्याउदा ३ दिन भित्र मरेक वाणियो भन्ना जति जनाले मारी भनि समार्थ पत्रांति पसाई भगाईदियाहो छ उति जनालाई लोग्न् मानिस भय ऐनवभोजीमा अंस सर्वस्व गरि दामल गन्न। स्वाभिष मानिस भय १२ वर्ष कैद गन्न। यमाका रैपैया कौटिदिया पानि नलिनु।

७२. धनमालका लालचले भयो वा अरू केही दिवले मारी भनि द्वैरे जना मिलि धोखोको अख्यावेछ वा वाह्येछ वा तुडावेछ वा पासो लाम्यो वा मुप्ना वुजो लाम्यो र त्यो मानिस मरेन वाणियो भन्ना जति जनाको हात पर्यानु छ उति जना लाई लोग्न् मानिस भय ऐनवभोजीमा अंस सर्वस्व गरि दामल गन्न। भगाईदिया पानि नलिनु।

७३. [MS2 p. 535] धनमालका लालचले भयो वा अरू केही दिवले मारी भनि द्वैरे जनाले मारी सनाली गरि जहर पुवाचेद र जहर पियाको ज्यान मरेन वाणियो भन्ना मारी भनि जहर पियावुवाउया लोग्न् मानिस भय ऐनवभोजीमा अंस सर्वस्व गरि दामल गन्न। स्वाभिष मानिस भय १२ वर्ष कैद गन्न। यमाका रैपैया कौटिदिया पानि नलिनु।

७४. [MS2 p. 535] धनमालका लालचले भयो वा अरू केही दिवले मारी भनि द्वैरे जनाले मारी सनाली गरि जहर पियाको ज्यान मरेन वाणियो भन्ना मारी भनि जहर पियावुवाउया लोग्न् मानिस भय ऐनवभोजीमा अंस सर्वस्व गरि दामल गन्न। स्वाभिष मानिस भय सर्वस्व नगरिर १२ वर्ष कैद गन्न। यमाका रैपैया कौटिदिया पानि नलिनु।

७५. धनमालका लालचले भयो वा अरू केही दिवले फलालाई फलालाई हो भनि जानि मरेन भनि जहर पियावुवाउया लोग्न् मानिस भय ऐनवभोजीमा अंस सर्वस्व गरि दामल गन्न। स्वाभिष मानिस भय सर्वस्व नगरिर १२ वर्ष कैद गन्न। यमाका रैपैया कौटिदिया पानि नलिनु।

७६. धनमालका लालचले भयो वा अरू केही दिवले मोष् पानि 215 भ फलालाई जहर पियावुवाउया 216 भनि बवन दियाह र उस्को अज्ञात जहर पियाको ज्यान मरेन वाणियो भन्ना जहर पियावुवाउया लोग्न् मानिस भय ऐनवभोजीमा अंस सर्वस्व गरि दामल गन्न। स्वाभिष मानिस भय सर्वस्व नगरिर १२ वर्ष कैद गन्न। यमाका रैपैया कौटिदिया पानि नलिनु।

७७. धनमालका लालचले भयो वा अरू केही दिवले जहर पियावुवाउया 215 भ फलालाई जहर पियावुवाउया 216 भनि बवन दियाह र उस्को अज्ञात जहर पियाको ज्यान मरेन वाणियो भन्ना जहर पियावुवाउया लोग्न् मानिस भय ऐनवभोजीमा अंस सर्वस्व गरि दामल गन्न। स्वाभिष मानिस भय सर्वस्व नगरिर १२ वर्ष कैद गन्न। यमाका रैपैया कौटिदिया पानि नलिनु।

211 MS2 pāṃni.
212 MA-ED3 vā.
213 MS2 mārtālāi.
214 MS2 omits sarvasva nagari.
215 MA-ED3 mokhya.
216 MA-ED3 māra.
217 MS2 asa; MA-ED3 aśa.
218 MS2 ganu.
भनि वनन पनि ननपन जहर विष पनि ननपन अरु 219 मतलबीहरूलाई जहर विष पुञामाै दाँयाको ज्ञान भन्ना मरेन बाच्चो भन्ना मार्को मतलबमा पनि मार्यादा ठाउमा स्मेत जान्या मतलबी लोग्न्या मानिस भन्या ऐन्समोजीको अंस सर्वस्व गरि ६ वर्ष स्वाभि मानिस भन्या सर्वस्व नगरि ३ वर्ष कैद गन्नु ह। म्याडका रुपैया कति दिया पनि नलित हु।

७८. ध्नमालका लालचने भयो वा अरु केही इबिले जहर विष पुञाय मारो भन्ना मतलबमा मात्र पस्न्या मार्यादा ठाउमा नग्न्या जहर विष पनि तुपवाउन्या मोष्ठ भै मार भनि वनन पनि ननपन जहर विष पनि ननपिया अरु मतलबीहरूलाई जहर विष पुञामाै दाँयाको ज्ञान मरेन बाच्चो भन्ना मार्को मतलबमा पस्न्या मार्यादा ठाउमा नजान्या एस्त खरो लोग्न्या मानिस भन्या ऐन्समोजीको अंस सर्वस्व गरि ४ वर्ष स्वाभि मानिस भन्या सर्वस्व नगरि २ वर्ष कैद गन्नु ह। म्याडका रुपैया कति दिया पनि नलित हु।

[11] [MS2 p. 536] एकै जनाले मारो भन्ना मतलब गरि चाउ लायामा सजान्या गन्ना ऐन्नू ७९. ध्नमालका लालचने भयो वा अरु केही इबिले अर्कालाइ मारूँ 220 भनि हतियारा शैँहले 221 हान्दछ रोपेछ र त्यो मानिस मरेन ज्ञ जयम पनि भरेन चाउ मात्र लागेछ भन्या चाउ 222 लायाको ठुनो हवस सानु हवस हान्या लोग्न्या मानिस भन्या ऐन्समोजीको अंस सर्वस्व गरि १२ वर्ष स्वाभि मानिस भन्या सर्वस्व नगरि ६ वर्ष कैद गन्नु ह। म्याडका रुपैया कति दिया पनि नलित हु।

८०. ध्नमालका लालचने भयो वा अरु केही इबिले अर्कालाइ मारूँ 223 भनि बंडूक कांड सबै शैँहले हानि भा लायेछ ज्ञान मरेन्या र ज्ञ जयम भयाको रहेनछ 224 भन्या भा लायाको 225 ठुनो 226 हवस सानु हवस हान्या लोग्न्या मानिस भन्या ऐन्समोजीको अंस सर्वस्व गरि १२ वर्ष स्वाभि मानिस भन्या सर्वस्व नगरि ६ वर्ष कैद गन्नु ह। म्याडका रुपैया कति दिया पनि नलित हु।

८१. ध्नमालका लालचने भयो वा अरु केही इबिले अर्कालाइ मारूँ 227 भनि भिर बड़खामा 228 र रय ज्ञाल कौशि ढाँणा रघूयाल 229 शैँहात च्यायाट फसाद लडाईदिशेछ र त्यो मानिस मरेन ज्ञ जयम पनि भयाको रहेनछ भा माता लागेछ भन्या भा लायाको ठुनो 229 हवस सानु हवस 230 लोग्न्या मानिस भन्या ऐन्समोजीको

219 MS2 omits aru.
220 MA-ED3 mārauṃ.
221 MA-ED3 gaihale.
222 MA-ED3 ghā.
223 MA-ED3 mārauṃ.
224 MS2 jyāna maryāko rahecha bhanyā.
225 MS2 lāyoko.
226 MA-ED3 ṭhulo.
227 MS2 mārāu nani bhīde śaḍaṣoromā.
228 MA-ED3 parkhāla.
229 MA-ED3 ṭhulo.
230 MS2 omits sānu havas.
अंस स्वर्ग गरि १२ वर्ष स्वाधीन मानिस भया सर्वस्व नगरि ६ वर्ष कैद गर्नु। यमादका रूपैया कक्ष दिया पनि नलिनु।

८२. धनमालका लालचले भयो एरू केही इबिले अकौलाई मारी भनि लाठा हुँगा काह इन चप्पर प्रथमा हालाम हैले हानीध पत्वर मुदाने चिनेन्द्र र ल्यो मानिस मरेन ज्यू जप्म र पनि भयाको रहेका घाँउ मात्र लाग्नि भन्न र लायको ठुलो हवसू साँत हवसू २३१ मारी भनि हांस्या लोग्नया मानिस भया एनवमोजीयो अंस २३२ स्वर्ग गरि १२ वर्ष स्वाधीन मानिस भया सर्वस्व नगरि ६ वर्ष कैद गर्नु। यमादका रूपैया कक्ष दिया पनि नलिनु।

८३. धनमालका लालचले भयो एरू केही इबिले अकौलाई मारी भनि आगामा हानिद्द सेकाइद्द र ल्यो मानिस मरेन ज्यू जप्म पनि २३३ भयाको रहेका आगाले पनि चा मात्र लागी वाच्चयो भन्न र लायको ठुलो हवसू साँत हवसू मारहू २३४ भनि आगामा हांस्या लेकाउन्या लोग्नया मानिस भया एनवमोजीयो अंस स्वर्ग गरि १२ वर्ष स्वाधीन मानिस भया सर्वस्व नगरि ६ वर्ष कैद गर्नु। यमादका रूपैया कक्ष दिया पनि नलिनु।

८४. धनमालका लालचले भयो एरू केही इबिले भरोसा नया जना मीली हत्याकर हैलू २३५ हानिद्द रोपेऽ त ल्यो मानिस मरेन ज्यू जप्म पनि भयेन चा मात्र लागी वाच्चयो भन्न जति जनाले मारी २३६ भनि हत्याकरो चोट झ्काको छ उति जनालाई हांस्या मानिस भया एनवमोजीयो अंस स्वर्ग गरि १२ वर्ष स्वाधीन मानिस २३७ भया सर्वस्व नगरि ६ वर्ष कैद गर्नु। यमादका रूपैया कक्ष दिया पनि नलिनु।

८५. धनमालका लालचले भयो एरू केही इबिले अकौलाई मारी भनि धेरे जना मिली बहुः काह सक्र हैले हानिद्द र ल्यो मानिस मरेन ज्यू जप्म पनि भयेन २३८ चा मात्र लागी वाच्चयो भन्न जति जनाले मारी भनि चोट झ्काको छ उति जनालाई हांस्या मानिस भया एनवमोजीयो अंस स्वर्ग गरि १२ वर्ष स्वाधीन मानिस भया सर्वस्व नगरि ६ वर्ष कैद गर्नु। यमादका रूपैया कक्ष दिया पनि नलिनु।

८६. धनमालका लालचले भयो एरू केही इबिले अकौलाई मारी भनि धेरे जना मिली भरोसा एक्षर प्रथमा हाला र ल्यो मानिस मरेन ज्यू जप्म पनि भयेन २३९ चा मात्र लागी वाच्चयो भन्न जति जनाले मारी भनि चोट झ्काको छ उति जनालाई हांस्या मानिस भया एनवमोजीयो अंस स्वर्ग गरि १२ वर्ष स्वाधीन मानिस भया सर्वस्व नगरि ६ वर्ष कैद गर्नु। यमादका रूपैया कक्ष दिया पनि नलिनु।

[१२] [MS2 p. ५३७] धेरै जनाले मारी भन्न तनी सल्लाह गरि चांढ लाया जाय गन्न भए।

२३१ MS2 omits sānu havas.
२३२ MS2 asa.
२३३ MS2 sāni.
२३४ MA-ED3 māraum.
२३५ MS2 hatiyārale.
२३६ MS2 mālau.
२३७ MS2 maganisa.
२३८ MS2 bhayena.
२३९ MS2 bhida bhadasārā.
२४० MA-ED3 parkhāla.
मारी भनिन भैर भस्वार २४१ रूप व्याल कौशि झ्याना पर्याल २४२ गैउवात पसानायको छ उति जनालाई लोमिया मानिस भया एन्नमोजीमिया अंस सवर्ध गरी १२ वर्ष स्वावि मानिस भया सवर्ध नगरि ६ वर्ष के गर्नु । म्याडका रूपैया कन पिदा पनि लिनु ।

८५. धनमालका लाखल्ले भयो वा अरु केही इविले मारी भनि येके जना मिलि लाङा उमा देट चपरि काट प्राथु झाटरो गैउ र यूणायो २४३ गैउले हानि वा फल्थर मुखाङ विच्छेद र ल्यो मानिस मनन ज्यू जसम पनि भयेन घा मात्र लागी वाच्यो भया मारी भनि जति जनाले हानियो विज्ञायको छ उति जनालाई लोमिया मानिस भया एन्नमोजीमिया अंस सवर्ध गरी १२ वर्ष स्वावि मानिस भया सवर्ध नगरि ६ वर्ष के गर्नु । म्याडका रूपैया कन दिदा पनि लिनु ।

८६. धनमालका लाखल्ले भयो वा अरु केही इविले मारी भनि येके जना मिलि वच्च्यारित पसाई आगामा हालेङ्गु सेकाउँगु २४४ र ल्यो मानिस मनन ज्यू जसम पनि भयेन गौहारी पाई वा आफे उक्की घा मात्र लागी वाच्यो भया आगामा सेकाउँगा वेलामा र हालाय्ना वेलामा जति जनाले समाययो छ उति जनालाई लोमिया मानिस भया एन्नमोजीमिया अंस सवर्ध गरी १२ वर्ष स्वावि मानिस भया सवर्ध नगरि ६ वर्ष के गर्नु । म्याडका रूपैया कन दिदा पनि लिनु ।

८७. धनमालका लाखल्ले भयो वा अरु केही इविले मारी भनि येके जना मिलि मतलब मनस पसि मानिसा राखायला इत्याले हसत्यार वंदूक कयान गैह कद मानिसया ठयाउला स्वेत जयान्त्या हसत्यार नचलयाउन् भया एन्नमयालया ठयाउला को घेनछ घा मयात्र लयागी व्यो भनि लोमिया मानिस भया एन्नमोजीमिया अंस सवर्ध गरी १२ वर्ष स्वावि मानिस भया सवर्ध नगरि ६ वर्ष के गर्नु । म्याडका रूपैया कन दिदा पनि लिनु ।

८८. धनमालका लाखल्ले भयो वा अरु केही इविले फलानाला मारी भनि मोझि भै बचन दिदुर र उक्की आजाले गै अरुले हान्ता ल्यो मानिस मनन ज्यू जसम पनि भयेन गोहारी पाई वा आफे उक्की घा मात्र लागी वाच्यो भया मोझि भै मारी बचन दिव्यालाई मान्या ठयाउला संग गयायको भया पनि नग्यायको भया पनि लोमिया मानिस भया एन्नमोजीमिया अंस सवर्ध गरी १२ वर्ष स्वावि मानिस भया सवर्ध नगरि ६ वर्ष के गर्नु । म्याडका रूपैया कन दिदा पनि लिनु ।

९०. धनमालका लाखल्ले भयो वा अरु केही इविले मानिको मतलब मनस पसि मानिसलाई समायः दिन् न्या र बाढीदिन्यालाई ल्यो मानिस मनन ज्यू जसम पनि भयेन गोहारी पाई वा आफे उक्की घा मात्र लागी वाच्यो भया मानिसलाई समायः दिन्या वाढ्या नहरू जति जना छन्दू उति जनालाई लोमिया मानिस भया एन्नमोजीमिया अंस सवर्ध गरी १२ वर्ष स्वावि मानिस भया सवर्ध नगरि ६ वर्ष के गर्नु । म्याडका रूपैया कन दिदा पनि लिनु ।

९१. मानिसलाई चयासह मानिसले फलालाई माँहू हेटियार बन्दूक कान गैह दिन मानिसा ठयाउला स्वेत जयान्त्या हेटियार नचलाउला मोझि भै मारी बचन पनि दिव्यालाई मानिस माँहोको देहेजन्दू या मात्र लागी भन्नो भया मानिसलाई हेटियार बन्दूक कान दिदयाको छ उति जनालाई लोमिया मानिस भया एन्नमोजीमिया अंस सवर्ध गरी १२ वर्ष स्वावि मानिस भया सवर्ध नगरि ६ वर्ष के गर्नु । म्याडका रूपैया कन दिदा पनि लिनु ।

९२. मान्या चाही मानिसले फलालाई माँहू हेटियार बन्दूक कान देउ भनि उसले बेदा फलालाई माँहू सन्वालाई २४३ हेटियार भनि २४६ दिखेछ मान्या ठयाउला

241 MS2 bhilda bhadasārā.
242 MA-ED3 parkhāla.
243 MA-ED3 ghugyāco.
244 MS2 omits sekāyachan.
245 MS2 bhanyālā.
246 For bhane.
अपूर्व ग्यायोको रहेन्द्र र कान्तिकायोको ज्यान भरेन ज्यू जग्म पत्नि भयेन घा मात्र लागी बायो भन्या तिल्ले मायालाई हृतियाल रद घा लायोको ठहराले लोग्न्यामानिस भया ऐनवमोजीको अंस सर्वस्व गरिए १२ वर्ष स्वाभिमान समस्या समस्या नगरी ६ वर्ष कैद गर्नु। य्यार्याको रूपैया कथा दिया पति नलिनु।

९३. ध्यानलाग्याको लाग्याको भयो वा अर कैही इब्रीले मायाको मतलबमा पसि मार्न लाग्दा भाग्या उक्तला भनी घरमित्र व्याले ढोका पुनिदिनिया भया डॉला स्थिकिदिन्यालाई मानिस मर्याको र ज्यू जग्म भयाको रहेन्द्र घा मात्र लाग्दा भन्या मायाको मतलबमा जज्ञा जल्ना लाग्दा न्याले ढोका पुनिदिनिया भया २४७ स्थिकिदिनिया कर उद्ध जनालाग्दा लोग्न्यार मानिस भया ऐनवमोजीको अंस सर्वस्व गरिए ९ वर्ष स्वाभिमान समस्या समस्या नगरी ४। वर्ष कैद गर्नु। य्यार्याको रूपैया कथा दिया पति नलिनु।

९४. [MS2 p. 539] ध्यानलाग्याको लाग्याको भयो वा अर कैही इब्रीले मायाको मतलबमा पसि मार्न लाग्दा भाग्या उक्तला भनी घरमित्र व्याले नस्माउन्यालाई मानिस मर्याको २४८ विउ जग्म भयाको रहेन्द्र घा मात्र लाग्दा भन्या मायाको मतलबमा पसि बाटो गङ्गा स्थिकिदिनिया जज्ञा जल्ना छन्नु उद्ध जनालाग्दा लोग्न्यार मानिस भया ऐनवमोजीको अंस सर्वस्व गरिए ६ वर्ष स्वाभिमान समस्या समस्या नगरी ३ वर्ष कैद गर्नु। य्यार्याको रूपैया कथा दिया पति नलिनु।

९५. ध्यानलाग्याको लाग्याको भयो वा अर कैही इब्रीले मायाको मतलबमा पसि मार्न लाग्दा भाग्या उक्तला भनी विकाट बन्यालाई ल्यो मानिस मर्याको र ज्यू जग्म भयाको रहेन्द्र घा मात्र लाग्दा भन्या मायाको मतलबमा पसि विकाट बन्या जज्ञा जल्ना छन्नु उद्ध जनालाग्दा लोग्न्यार मानिस भया ऐनवमोजीको अंस सर्वस्व गरिए ६ वर्ष स्वाभिमान समस्या समस्या नगरी ३ वर्ष कैद गर्नु। य्यार्याको रूपैया कथा दिया पति नलिनु।

९६. ध्यानलाग्याको लाग्याको भयो वा अर कैही इब्रीले मायाको मतलबमा पसि मायाको ठाउमा संग जान्या हात नछोड़्याको नछेक्को विकाट पति नबन्या बोध भी मार्न रजत पति नवन्त्या हेर्ने मात्र रहेन्द्र ल्यो मानिस मर्याको र ज्यू जग्म भयाको रहेन्द्र घा मात्र लागेछ २५२ भन्या मायाको मतलबमा पसि संग भी हेर्ने रहेन्द्र जज्ञा जल्ना छन्नु उद्ध जनालाग्दा लोग्न्यार मानिस भया ऐनवमोजीको अंस सर्वस्व गरिए ६ वर्ष स्वाभिमान समस्या समस्या नगरी ३ वर्ष कैद गर्नु। य्यार्याको रूपैया कथा दिया पति नलिनु।

९७. ध्यानलाग्याको लाग्याको भयो वा अर कैही इब्रीले मायाको मतलबमा पसि मायाको ठाउमा संग जान्या हात नछोड़्याको नछेक्को विकाट पति नबन्या बोध भी मार्न रजत पति नवन्त्या हेर्ने मात्र रहेन्द्र ल्यो मानिस मर्याको र ज्यू जग्म भयाको रहेन्द्र घा मात्र लागेछ २५२ भन्या मायाको मतलबमा पसि संग भी हेर्ने रहेन्द्र जज्ञा जल्ना छन्नु उद्ध जनालाग्दा लोग्न्यार मानिस भया ऐनवमोजीको अंस सर्वस्व गरिए ६ वर्ष स्वाभिमान समस्या समस्या नगरी २ वर्ष कैद गर्नु। य्यार्याको रूपैया कथा दिया पति नलिनु।

247 MS2 bhamravyā.
248 MS2 bhāvalā.
249 MS2 omits vāheka.
250 MS2 māryāko.
251 MA-ED3 omits sarvasva.
252 MA-ED3 lāgyo.
९.८. धनमालका लालचले भयो वा अरू केही इबिले मारी भनि सर्प हालिलिथ्येछ र त्यो मानिसीहरु सङ्गले टोकी चा मात्र लागिन्छ ज्यानु मर्याको र ज्यु जपम भयाको रहेनछ भन्ने मारी भनि सर्प लगी हालिलिथ्यामा लोम्यामा मानिस भया ऐनमोजीम्यावंतबेटामोजीम्यांस अंस सबस्व गरी १२ वर्ष स्वालिन्छ मानिस भया सबस्व नगरि ६ वर्ष कैद गर्दै। म्याडका रूप्याय कति दिया पनि नलिनु।

९.९. [MS2 p. 540] धनमालका लालचले भयो वा अरू केही इबिले मारी भनि कुकुर लगाइ टोकाकरेछ र त्यो मानिस सर्प ज्यु जपम पनि भयेन अत्र लागी वाच्यो भन्ने मारी भनि कुकुर लगाइ टोकाउन्या लोपन्या मानिस भया ऐनमोजीम्यावंतबेटामोजीम्यांस सबस्व गरी १२ वर्ष स्वालिन्छ मानिस भया सबस्व नगरि ६ वर्ष कैद गर्दै। म्याडका रूप्याय कति दिया पनि नलिनु।

१००. धनमालका लालचले भयो वा अरू केही इबिले मारी भनि हालिलिथामा जिटिहायले आफू म्यान्नुको लागी भागि जादा ल्यो मानिस भिर भड्काउराहिट पसेकू र त्यो मानिस मर्यान्य ज्यु जपम पनि भयेन अत्र लागी ज्यु म्यान्नुको लागी भागि जादा भिर भड्काउराहिट पसिर चा लाग्याको हुनाले मारी भनि हतिहायले त्यो म्यान्नुको छठो लाउन नपायाको भया लोन्यामा मानिस भया ऐनमोजीम्यावंतबेटामोजीम्यांस अंस सबस्व गरी ६ वर्ष स्वालिन्छ मानिस भया सबस्व नगरि ३ वर्ष कैद गर्दै। म्याडका रूप्याय कति दिया पनि नलिनु।

१०१. धनमालका लालचले भयो वा अरू केही इबिले मारी भनि हालिलिथामा जिटिहायले आफू म्यान्नुको लागी भागि म्यान्नुको चोट लाउन नपायाको भया लोन्यामा मानिस भया ऐनमोजीम्यांस अंस सबस्व गरी ६ वर्ष स्वालिन्छ मानिस भया ३ वर्ष कैद गर्दै। म्याडका रूप्याय कति दिया पनि नलिनु।

[13] एकै जनाले मारी भन्ना मनलब गलि हालिलिथको उसलाइ लागी भाँड नताउयामा र हालिलिथको विरि हालिलिथको उसलाइ नताउयामा सजाय गर्नुहाँए।

१०२. धनमालका लालचले भयो वा अरू केही इबिले अकालाक्रिया मारी भनि बदृक काह सब्र गैहले हाली र हालिलिथको उसलाइ लागेन्छ अथवा हालिलिथको विरि चा भासि हालिलिथको उसलाई लागेन्छ भन्ने मारी भनि हालिलिथको उसलाइ लागेन्छ मानिस भया ऐनमोजीम्यावंतबेटामोजीम्यांस अंस सबस्व गरी ६ वर्ष स्वालिन्छ मानिस भया सबस्व नगरि ३ वर्ष कैद गर्दै। म्याडका रूप्याय कति दिया पनि नलिनु।

१०३. धनमालका लालचले भयो वा अरू केही इबिले अकालाक्रिया मारी भनि बदृक काह सब्र गैहले हालिलिथ र उसलाई लागी भाँड नताउ अथवा हालिलिथको विरि चा भासि
Sections 102 and 103 are similar, with the former using both the verbs ‘strike’ (हान्नु) and ‘stab’ (रोप्नु), while the latter only uses the verb ‘strike’.

261 MA-ED3 parkhāla.
262 MA-ED3 omits kāṭha.
263 MA-ED3 ghugyāco.
264 MS2 omits thicyāko.
265 MS2 ri.
266 MA-ED3 mārauṃ.
जति जना छन् उति जनालाई लोग्न्यासार्थ मानिस भया ऐनवमोजीमको अंस सर्वस्व गरि ६ वर्ष स्वास्थ्य मानिस भया सर्वस्व नगरि ३ वर्ष कैद गर्नु। म्यादका रूपैया कल्ति दिया पनि नलिन।

१०९. [MS2 p. 542] धनप्रजाका लालजले भयो वा अरु केही इकबिले मारी भनि धरै जना मिलि लाटा हुँगा काठ इट चपरि धातु सटारी गैह्र घुँघाटहुँ। २६८ गैहले हांडा वा पश्चात सुधार लिहिता उसलाई लागि या लागेनछ अथवा हान्याको बिरियछ वा भागी लुङ्क। २६९ उसलाई लागेनछ भन्ति जति जनाले मारी भनि हान्याको छ उति जनालाई लोग्न्यामा मानिस भया ऐनवमोजीमको अंस सर्वस्व स्वास्थ्य मानिस भया सर्वस्व गरि ५ वर्ष जैद गर्नु। म्यादका रूपैया कल्ति दिया पनि नलिन।

११०. धनप्रजाका लालले भयो वा अरु केही इकबिले मारी भनि धरै २७० जना मिलि आगमा चन्दीयति यसाको लिएकामुः या भोक होतेन ज्यू जयम पनि भयेन आगले पोलि जाड पनि केही इन पायेन गुहारी पाड वा आफे उम्को वाञ्ची भन्ना आगमा सेकाउको हाम्या बेलामा र हाम्या बेलामा जति जनाले समायाको छ उति जनालाई लोग्न्यामा मानिस भया ऐनवमोजीमको अंस सर्वस्व गरि ६ वर्ष स्वास्थ्य मानिस भया सर्वस्व नगरि ३ वर्ष कैद गर्नु। म्यादका रूपैया कल्ति दिया पनि नलिन।

१११. धनप्रजाका लालले भयो वा अरु केही इकबिले फालान्लाई मार भनि मोष्‌ भै वचन दिगम्ले २७१ उस्को आज्याले गै अरुले हयान्दयाले हयान्दयाले उस्लाई लागि चले रान्दको पनि केही लागायोको उम्नि भया मोष्‌ भै वचन दिगम्ले २७२ उस्को आज्याले गै अरुले हयान्दयाले हयान्दयाले उस्लाई लागि लागेनछ जस्त जना छन् छुँछ उस्लाई लागि लागेनछ भन्ना भया मोष्‌ भै मार भनि वचन दिगम्ला मान्यो थाउँ संग गयाको भन्ना पनि नन्याको भन्ना पनि लोग्न्यामा मानिस भया ऐनवमोजीमको अंस सर्वस्व गरि ६ वर्ष स्वास्थ्य मानिस भया सर्वस्व नगरि ३ वर्ष कैद गर्नु। म्यादका रूपैया कल्ति दिया पनि नलिन।

११२. धनप्रजाका लालले भयो वा अरु केही इकबिले मानाका मतलबामा पसि मान्यालाई समाचितिको र वाचितिको २७३ लाड हान्याको उस्लाई २७४ लागि या लागेनछ वा बिरियछ वा गुहारी पाड वा आफे उम्की ज्यू वचनबाहेर दाउँ पनि केही लागायोको रस्तेनछ भया मोष्‌ भै वचन दिगम्ले २७५ मान्यो ओहारी २७६ पाड वा आफे भागी छन्ति ज्यू वचनबाहेर भया मान्यालाई समाचितिको बाढ्यन्या २७७ हरू जति जना छन्ति उति जनालाई लोग्न्यामा मानिस भया ऐनवमोजीमको अंस सर्वस्व गरि ६ वर्ष स्वास्थ्य मानिस भया सर्वस्व नगरि ३ वर्ष कैद गर्नु। म्यादका रूपैया कल्ति दिया पनि नलिन।

११३. धनप्रजाका लालले भयो वा अरु केही इकबिले मानाका मतलबामा पसि मान्यालाई हृतिखार बंदूक काळ गैह्र दि मान्यो थाउमा समेत जान्य हृतिखार नचलाउन्या मोष्‌ भै मार भनि वचन पनि नदियालाई उस्ने दियाका हृतिखार बंदूक काळ गैह्र ।

268 MA-ED3 ghugyāco.
269 MA-ED3 chañī.
270 MS2 dhera.
271 MA-ED3 diyecha.
272 MS2 ti.
273 MS2 ninyā.
274 MS2 usa.
275 MS2 omits vā viriyacha.
276 MA-ED3 guhāri.
277 MS2 bābanyā.
हान्दा उलझाड लाभी बाड 278 लागेनछ अथवा मारी भनि हान्याको विरियिङ्ङ भागी तुकी उलझाड लागेनछ भयाऊ जति जनाले मानाँलाड भनि हतियायर गैट दियाको छ उति जनालाड लोम्यान मानि भया ऐनबमोजीमको अंस सर्वस्व गरि ६ वर्ष स्वासि मानि भया सर्वस्व नगर्कै ३ वर्ष कैद गर्नु । म्याका सूरीया कङि दिया पनि नलिनु ।

११४. [MS2 p. 543] मान्ी बाडि मानिसले फलानालाड माँह ितियायर बंदुक काड देउ भनि उलझाड भयां हा फलानालाड माँहुँ 279 भन्या ला हतियायर भनि दीयिङ्ङ मान२ ठाउमा आफू ग्वायको रहेनछ र माँहु भनि हान्याले हान्याको विरियिङ्ङ बा भागी छदि उलझाड लागेनछ भन्या मानाँलाड हतियायर बंदुक काड दियाको ठहराने लोम्यान मानिस यमा ऐनबमोजीमको अंस सर्वस्व गरि ६ वर्ष स्वासि मानि भया सर्वस्व नगरकै ३ वर्ष कैद गर्नु । म्याका सूरीया कङि दिया पनि नलिनु ।

११५. धनमालका लालचले भयो बा अरु केही इतिले मानाङ्का मतलबमा पसि मान लाभास्न उमकला भनि रमितियाड याल होका छुनिएन्याड भयाड जीकिएन्याड ल्यो मानिस गुहारी पाड बा आफू उम्की वाख्यो भने ज्यु रम्य पनि भनेलाई चाड पनि केही लागेन भन्या मारी भनि द्याल होका छुनिएन्याड भयाड सिगिएन्याड जति छन २ उति जनालाड लोम्यान मानि भया ऐनबमोजीमको अंस सर्वस्व गरि ६ वर्ष 280 स्वासि मानिस भया सर्वस्व नगरकै २ वर्ष कैद गर्नु । म्याका सूरीया कङि दिया पनि नलिनु ।

११६. धनमालका लालचले भयो बा अरु केही इतिले मानाङ्का मतलबमा पसि मान लाभास्न उमकला भनि चरितियाड बाटह बाड पाउँ देट स्वयां होका उमकला देषनन् भसन सवकिए हस्य यमा रहेनछ हस्त नछोडनन् भसन सवकिे हस्य भनिए बाटो गोडा छेकिएन्याड आफमा हालाणे नसमाउल्यालाड मानिस मार्याको 281 ज्यु रम्य भयाको बा लाञ्याको रहेनछ हान्याको उमकला लाभी बा लागेनछ बा विरियिङ्ङ भनि मानाङ्का मतलबमा 282 पनि गोडा छेकिएन्याड 283 जति जना छन २ उति जनालाड लोम्यान मानी भया ऐनबमोजीमको अंस सर्वस्व गरि ४ वर्ष स्वासि मानिस भया सर्वस्व नगरकै २ वर्ष कैद गर्नु । म्याका सूरीया कङि दिया पनि नलिनु ।

११७. धनमालका लालचले भयो बा अरु केही इतिले मानाङ्का मतलबमा पसि मान लाभास्न उमकला अरूले देषनन् भनि विकिट कस्यालाड मारी भनि हान्याको उलझाड लाभी बा लागेनछ बा विरियिङ्ङ अथवा गुहारी पाड बा आफू भागी छनी ज्यु बचायिए भनि मानाङ्का लाञ्याको अरुले देषनन् भनि विकिट कस्याहरू जति जना छन २ उति जनालाड लोम्यान मानी भया ऐनबमोजीमको अंस सर्वस्व गरि ३ वर्ष स्वासि मानि भया सर्वस्व नगरकै १ ॥ वर्ष कैद गर्नु । म्याका सूरीया कङि दिया पनि नलिनु ।

११८. [MA-ED3 p. 115] नम्नकै । धनमालका लालचले भयो बा अरु केही इतिले मानाङ्का मतलबमा पसि मान नालि याको अरुले देषनन् भनि विकिट कस्यालाड मारी भनि हान्याको उलझाड लाभी बा लागेनछ बा विरियिङ्ङ अथवा गुहारी पाड बा आफू भागी छनी ज्यु बचायिए भनि मानाङ्का लाञ्याको अरुले देषनन् भनि विकिट कस्याहरू जति जना छन २ उति जनालाड लोम्यान मानी भया ऐनबमोजीमको अंस सर्वस्व गरि ३ वर्ष स्वासि मानि भया सर्वस्व नगरकै १ ॥ वर्ष कैद गर्नु । म्याका सूरीया कङि दिया पनि नलिनु ।

278 MA-ED3 ghā.
279 MS2 māchas.
280 MA-ED3 5 varṣa.
281 MA-ED3 maryāko.
282 MS2 matalava.
283 MS2 nyā.
284 The sections §§118–155 are missing in the MS2.
गै हेरर रहन््यया जसत जनया छन् उसत जनयालयाइ लोग्न््यया मयासनि् भ्यया ऐनवमोसज्मको अंश सबैभन्दै गरिर ३ वर्ष व्याख्यात मानिस् भया सर्वस्व नगरी । || वर्ष कैद गर्दै। य्यम्यका रुङ्खा कक्ष दिया पनि नलिनु।

११९ नम्यको। धन्यमालका लालचले भयो बा अर केहि इबिले मार्जाका मतलबमा पर्नेर भयां टाउमा नजान्या हतियार पनि नदिया मोख्यै भै मार भनि बचन पनि नदिया एस्ता मतलबहस्लाई मार्जा भनि हास्याको उल्लाई लागि घा लागेनदृ । वा विरियछ अथवा गुर्हरि पाई बा आफि भाषि छति ज्यू वचारछ भन्ना मार्जाका मतलबमा मात्र फल्बहर जति जना छन् उति जनालाई लोग्न््या मानिसिर भया ऐनवमोसज्मको अंश सबैभन्दै गरि २ वर्ष व्याख्यात मानिसि भया सर्वस्व नगरी । वर्ष कैद गर्दै। य्यम्यका रुङ्खा कक्ष दिया पनि नलिनु।

१२० नम्यको। धन्यमालका लालचले भयो बा अर केहि इबिले मार्जा भनि वर्ष हालि दियछ र त्यो मानिसलाई सम्बने टोककाको रहेनदृ भन्ना मार्जा भनि सर्प हालिदिन्या लोग्न््या मानिसि भया ऐनवमोसज्मको सबैभन्दै गरि ३ वर्ष व्याख्यात मानिसि भया (अश्च) सर्वस्व नगरी । || वर्ष कैद गर्दै। य्यम्यका रुङ्खा कक्ष दिया पनि नलिनु।

१२१ नम्यको। धन्यमालका लालचले भयो बा अर केहि इबिले मार्जा भनि कुकुर लाडिदिन्या र त्यो मानिसलाई कुकुरले टोकक पाटन भाषि उचि छति ज्यू वचार� भन्ना मार्जा भनि कुकुर लाडिदिन्या लोग्न््या मानिसि भया ऐनवमोसज्मको अंश सबैभन्दै गरि ३ वर्ष व्याख्यात मानिसि भया (अश्च) सर्वस्व नगरी । || वर्ष कैद गर्दै। य्यम्यका रुङ्खा कक्ष दिया पनि नलिनु।

१२२ नम्यको। धन्यमालका २८३ लालचले भयो बा र केहि इबिले मार्जा भनि हतियार नि लगार्दै भिरभिर भड्खयारयामा परर बा खौलमा फाल हालि उति गै बा उसे ज्यू बनाई भाषि गयछ बाउ बोटै हिरी लागाको रहेनदृ [MA-ED3 p. 117] भन्ना अर्जालाई मारी भनि हतियार नि लगार्दै लोग्न््या मानिसि भया ऐनवमोसज्मको अंश सबैभन्दै गरि ३ वर्ष व्याख्यात मानिसि भया सर्वस्व नगरी । || वर्ष कैद गर्दै। य्यम्यका रुङ्खा कक्ष दिया पनि नलिनु।

१२३ नम्यको। अर्जालाई मारी भन्ना मतलब गरि हतियार बनुनुक काई लाठा डुंगा बैह नि छिडि बाटो गौडा ब्याख्यालाई हतियार लाठा डुंगा बैह चलाउन नपाउदैमा रक्षीयो भन्ना अर्जामा मार्जाका मतलबले बाटो गौडा ब्याख्याई जति जना छन् उति जनालाइ लोग्न््या मानिसि भया ऐनवमोसज्मको अंश सबैभन्दै गरि ४ वर्ष व्याख्यात मानिसि भया सर्वस्व नगरी २ वर्ष कैद गर्दै। य्यम्यका रुङ्खा कक्ष दिया पनि नलिनु।

१२४ नम्यको। अर्जालाई मारी भन्ना मतलब गरि हतियार बनुनुक काई लाठा डुंगा बैह नि छिडि बाटो गौडा ब्याख्यालाई हतियार लाठा डुंगा बैह चलाउन नपाउदैमा जाहेर भयो भन्ना मानिसि मारी भन्ना मतलब गरि जति जना छन् उति जनालाई लोग्न््या मानिसि भया सर्वस्व नगरी २ वर्ष व्याख्यात मानिसि भया । वर्ष कैद गर्दै। य्यम्यका रुङ्खा कक्ष दिया पनि नलिनु।

१२५ नम्यको। अर्जालाई मारी भनि जहर विख खान्या कुरा गैहमा हालि दिएछ र खान नपाउदैमा जाहेर भयो भन्ना मारी भनि जहर विख खान्या कुरामा हालिदिन्या जहर विख खुबाद मार भन्ना मार्जालाई हो भनि जानि जानि जहर विख दिख।

For dhanamālakā.
एतिलाई लोग्यामा मानिस भया ऐनब्योज्मिको अंश स्वर्ग गरि ४ वर्ष स्वाधि मानिस भया सव्खैक नगरे २ वर्ष कैद गर्दै । म्यारक्का रैणजा कृति दिया पत्र नलिन तु ।

१२६ नम्बरको । एका मानिसलाई मानिसलाई भनि जहर विध खानाला कुरा गैहमा हालि दियो र उसले खान नपाउँदेमा अर्को मानिसले तेहि जहर विध हानिको खाएछ र उस्को ज्ञात मयौं भन्ना मारी भनि खानाला कुरामा जहर विध हालितिद्या नकारिन्या जात्का लोग्यामा मानिस भया ऐनवमोज्मिको अंश स्वर्ग गरि स्वाधि मानिस भया सव्खैक नगरे दमल गर्दै । काठिन्या जात्का लोग्यामा मानिस भया ध्यानको बदला ध्यानु तैप्रियतिदिन हुन।

१२७ नम्बरको । पर बाहेक अनेक २८६ जग्गयामा वाप्त भालु बदेल मुग जरायो अर्कै माैल क्लाल गैह बवजुनलाई र पाँछि मानिसलाई मार्नको निमित गाउँमा उद्दि दि जहर विध खानाला कुरा गैहमा हालितिद्याको रहेछ र तेहि जहर विध हानिको मालिन्यस्को हवमा या गाड्गोग मैहले घाँग नपाउँग खाएछ र खानाको यज्ञ मयौं गयो भन्या भोर घडन। जहर विध हालितिद्यालाई खट बात लाग्दैन दलितिद्या पत्र गति गर्न पर्दैन । गाउँमा उद्धि नदि हानिको रहेछ र तेहि खाइ भोरमा परार मानिस मयौं गयको भन्ना २० रैणजा द्वि गर्न। पाहिर्या मयौं गया गाउँचले ठहरिन्या किमो मान्या क्लाल धनिलाई भराइतिदिन दलित पर्दैन।

१२८ नम्बरको । कसैले अर्को सित हतियार बलुक माणि लगि मानिस मारेछ र हतियार बलुक दिन्याले मानिस मानलाई हो भनि घाँग नपाउँदा दियाको ठहरौं भन्ना हतियार हिरलाई खट बात लाग्दैन दलितिद्या पत्र पनि पर्दैन।

१२९ नम्बरको । कसैले अर्को सित हतियार बलुक माणि लगि मानिस मारेछ र हतियार बलुक दिन्याले मानिस मानलाई हो भनि घाँग नपाउँदा दियाको ठहरौं भन्ना हतियार हिरलाई खट बात लाग्दैन दलितिद्या पत्र पनि पर्दैन।

१३० नम्बरको । कसैले अर्को सित हतियार बलुक माणि लगि मानिस मारेछ र हतियार बलुक दिन्याले मानिस मानलाई हो भनि घाँग नपाउँदा दियाको ठहरौं भन्ना हतियार हिरलाई खट बात लाग्दैन दलितिद्या पत्र पनि पर्दैन।

१३१ नम्बरको । १२ वर्षिदिक मानिका के तकेकोलिने आफ्नो घरका [MA-ED3 p. 118] मानिसलाई हवमा वा अर्कै कैदको हवमा अर्को नदरोलाई मुनानिन्यालो उपविष्कृ खुबाएछ र खानामा माणिस मरेछ भन्या १२ वर्ष मानिका बालब हुनाले अर्कै खटवाल केहि लाग्दैन २ रैणजा दलित गरि १ रैणजा घोदान लिय पत्रिया दिनौ। अर्को अर्को खुबाएछकृ ठहरौं र घ्यौ मयौको रहेनछ भन्या अहोिल्नलाई ऐनब्योज्मिक गर्न। खुबाएछा बालबलाई सोहिब्योज्मिक दलित गरि पत्रिया दिलाई छौधिकथु अरु खटवाल लाग्दैन।

१३२ नम्बरको । १२ वर्ष नाथाका लोग्यामा माणिस वा स्वाधि मानिसले रिस्ले र दिझ्ने आफ्नो घरका लाई हवमा वा घरबाहेक अरु कैदको उपविष्कृ खुबाएछ र
क्षन्या मानिस् मरेए भन्या क्षन्याले मलाई फलानु 287 उपविख खुबाओ ता पनि मेरो ज्यु मरेए माथि दिएकु भन्या पनि माफ दिन भन्या पनि ज्यु अन्तर्गत अमालवाद कान्नामाने लेखाइ ४ वर्ष कैड गर्नु । य्याका रुपैँजा दिया लितु धमाकिकारवात ५ रुपैँजा गोदापि लि पतिथा दिय ।

१३३ नम्बर । बाझूण नगरात चार वर्ष छलिमै जातको लोम्या स्वाभिष मानिस् कसैले अल्लालाइ मार्न भनि हर्मिथायर चलाइ भा लाएर उस्ये हर्मिथायर चलाउदा देखिा कालि गुहाइ पनि रहेछिन् र या लाईमान्याले आफ्नो मरालाखा लागि हर्मिथायर चलाइ भाँउ लाउन्यालाई आफ्नो ज्यु बचाउनका लागि उसे ठाउ उसे बरकसा हर्मिथायरले भा अरु थोकिले हानि मायार्याङ्को रहेछिन् गुहार तेबारले पनि मरालि नैरबेले हर्मिथायर चलाइ भाँउ लाउदा उन्ने मायाङ्को हो मात्र मुलुका स्मेत लेखिद्यो भन्या मान्यातालाट खत्ताल नाचै। बाझूण र माञ्छिन्द्र हाल गोकालालाई मायाङ्को रहेछ भम्या पतिथा गराइ भालानिमा चलाउदिनु । अरु जालालाई मायाङ्को रहेछ भम्या पतिथा पददैन जामातै पतेछ ।

१३४ नम्बर । कसैले अल्लालाइ मारि तेस्ले मले मार्न भनि हर्मिथायरले हानि भाँउ लाउदा तेस्ला मार्न भाँउ जाङ्को ज्यु बचाउ आफ्नो ज्यु बचाउ। [MA-ED3 p. 120] उ चरमा अडा अदालत अमाल्ञा आफ्ने जाङ्के गरन आयो मार्नाङ्को साछि गुहाइ पनि केहि रहेछिन् भन्या ज्यामर्मिथायर कुरामाका मान्याका मुखले मार्न भनि छुट्टी पाउदैन। अदालत कोशले तजबिज गरि ढहाउदा जान्यालाखा लागि हर्मिथायर चलाई भाँउ लाउदा उन्ने आफ्नो ज्यु बचाउनका लागि मायाङ्को ढहाउ तेस्ला खत्ताल नाचै। बेक्स्मा अर्को ज्यामारि आफ्नो ज्यु बचाउनका लागि मलाई मार्न भनि आउ लाउदा माले मायाङ्को हो भन्न आयाङ्को ुढ़हाँ नकारिया जातको लोम्या मानिस्या ऐन्वोमोजिको अंश सबस्त स्त्य व्याख्यान्न मानिन्द्रभास (अर्थ) सबस्त नारि तेस्ले दामल गर्नु। काटिया जातका लोम्या मानिस्थ्याइ भयाँ ज्याङ्को बदला ज्यानू काटि मारिदिनु।

१३५ नम्बर । कसैले अल्लालाइ मारेछ त्यो कुरो मान्याले जाङ्के गरन पछि अर्काउ जाङ्के भयो र मान्यालाइ पश्चि ल्याइ सोध्योज गर्न छलाई मार्न भनि हानि माले मायाङ्को भयो मार्नाङ्को साछि पनि कोस्ते देखाउन बसेन्न भन्या तेल्ले रिस्ते मायाङ्को रहेछ। नकारिया जातका लोम्या मानिस्त्याइ भयाँ ऐन्वोमोजिको अंश सबस्त गरि व्याख्यान्न मानिस्याङ्का (अंश) सबस्त नारि तेस्ले दामल गर्नु। काटिया जातका लोम्या मानिस्याङ्को बदला ज्यानू काटि मारिदिनु।

१३६ नम्बर । अर्को बेक्स्मा मानिस्याङ्का लायामा गुहार मार्न खवर सुनि गुहार नजान्यामा १६ वर्ष माथि ६५ वर्ष सम्मका जानाकामा गाउः हाकिमलाई १०० रुपैँजा मोखबिर बाहिक गुहार मायाङ्को सुनि नजान्या अरुलाई जनिहि १० रुपैँजा दशद गर्नु। १६ वर्ष उपधारा र ६५ वर्ष उमेखालाई र बेकिरिम मायालाई र व्याख्यान्न मानिस्त्याङ्क बाल लापै गुहार मायाङ्को सुनि यो एका तर्क धेरे रहेछ। नित्तमा १२ जना गयाछनु अरु गयाङ्को रहेछ नजान्या पनि नजान्या एका तर्क अरुलाई दशद पददैन ।

287 For phalānule.
१३७ नम्बरा। अरको यात्रामारी कोसह मानिस लट्टा सिवाना ना [MA-ED3 p. 121] वि भाषी गयो भन्न तेस्तालाई यात्रामारी मुनुतक्मा गै समाजन र यात्रामारी महत्त छै। यात्रामारी मुनुतक्मा भारी जात्यालाई पक्ष र भन्न भन्न तेस्तालाई तर्क भाग छै। यात्रामारी मुनुतक्मा भारी जात्यालाई पक्ष र भन्न भन्न तेस्तालाई तर्क भाग छै।

१३८ नम्बरा। आज्ञाको आज्ञाको आज्ञाको आज्ञाको अचूक अचूक अचूक अचूक-अदालत ठाना अछाल काठिरिवार लिन पक्ष र भन्न भन्न तेस्तालाई इल्लालाई अरु पुंशको चोट छोट यात्रामारी मान्यता यात्रामाराका ऐन्वेषणको अन्यरंग सर्वस्व गर्न मानिस भया (अंश) सर्वस्व नगरी तेस्सै दामल गन्न। काठिन्या जातका लोम्यान मान्यता भया यात्राको बज्मा ज्यात्रू कातिमारीदिनु।

१३७ नम्बरा। अरको यात्रामारी कोसह मानिस लट्टा सिवाना ना [MA-ED3 p. 121] वि भाषी गयो भन्न तेस्तालाई यात्रामारी मुनुतक्मा गै समाजन र यात्रामारी महत्त छै। यात्रामारी मुनुतक्मा भारी जात्यालाई पक्ष र भन्न भन्न तेस्तालाई तर्क भाग छै। यात्रामारी मुनुतक्मा भारी जात्यालाई पक्ष र भन्न भन्न तेस्तालाई तर्क भाग छै।

१३८ नम्बरा। हाकिमका मर्ज आज्ञाले र अछाल-अदालत ठाना अछाल काठिरिवार लिन पक्ष पाठालाई पक्ष यात्रामाराका अरु पुंशको चोट छोट यात्रामारी मान्यता यात्रामाराका ऐन्वेषणको अन्यरंग सर्वस्व गर्न मानिस भया (अंश) सर्वस्व नगरी तेस्सै दामल गन्न। काठिन्या जातका लोम्यान मान्यता भया यात्राको बज्मा ज्यात्रू कातिमारीदिनु।

१३९ नम्बरा। हाकिमका मर्ज आज्ञाले र अछाल-अदालत ठाना अछाल काठिरिवार लिन पक्ष पाठालाई पक्ष यात्रामाराका अरु पुंशको चोट छोट यात्रामारी मान्यता यात्रामाराका ऐन्वेषणको अन्यरंग सर्वस्व गर्न मानिस भया (अंश) सर्वस्व नगरी तेस्सै दामल गन्न। काठिन्या जातका लोम्यान मान्यता भया यात्राको बज्मा ज्यात्रू कातिमारीदिनु।

१४० नम्बरा। ज्यान मारी चोर वास्तव मृत्युका घर छिटान पकर्न मान्यता यात्रामाराका ऐन्वेषणको अन्यरंग सर्वस्व गर्न मानिस भया (अंश) सर्वस्व नगरी तेस्वै दामल गन्न। काठिन्या जातका लोम्यान मान्यता भया यात्राको बज्मा ज्यात्रू कातिमारीदिनु।
भयो कोठा बौद्ध बैगल छिडिमा धृति राख्यालाई मानिस झ्याल कौसी झानवाट
फाल हाति मयों हात खुटा जबन भयो अंग भंग भयो आनला हातवले सेरियो हितिबार
धसि मयों पासो लागि मयों जहाँ विख खान मयों भन्या बुन्या मानिस्लाई खतलाई लाईदै।
त्यो मन्त्रालय लित पत्वाँ भन्या हिसाबव्योज्म उक्ता सलान अनुतालि
खान्यासम लिन पाईदै अन्तलाई अन्ताल्मा कराउन आया भराइलिनु।

[15] झ्यान मारौं म्नि हान्याको खत हेरि सलान गन्याँ ऐन
१४४ [MA-ED3 p. 123] तन्मकॉ। मानिस मार्याककु कुरामा र मानिस मार्याको मतलब गर्याका कुरामा डैै ऐन्मा लेखियाका रितसम मानिस मार्याको ज्यू जबन गर्याको था लाग्नाको मतलब माय गर्याको रहेछ भन्या डैै ऐन्वोमोजिम गर्नु। इ ऐन्मा लेखियाको रितमै मार्याको ज्यू जबन भयाको था लाग्नाको मतलब गर्याको ठहरेन अर बिहियाले मर्याको ज्यू जबन भयाको था लाग्नाको ठहरानबन्न सदैव बन्दिन का ८ तन्मकॉ ऐन्वोमोजिमको बिहियाको अंबकॉ ऐन गराइ मानिस्ला छिन्न।
१४५ तन्मकॉ। झ्यान मार्याको मतलब गरी हवस था अर कुराका झामाका क्षस्याले हतियाले हाति रोधि था अर कुरो गरी था लाया जबन म्नामा चाउ नापत्नु। जबन भयाको ठहराउनु पयों भन्या नाउ भयाका ठउमाना नाउ भन्याको ठउमाना उस ठउका जान्या भन्या मानिस्लाई हान्याका डामा लमाड रोयाका डामा गैहो नाआ लगाई ज्यु जबन भन्या नभयाको ठहराउन लगाइ उन्ले ठहरायामा उन्को ऐन्विसम भयाको ठहराउन लगाइ उन्ले पल्न ठहरायामा उन्को ऐन्विसम भयाको ठहराउन लगाइ उन्ले ठहरायामा उन्को ऐन्विसम भयाको ठहराउन लगाइ उन्ले किरुकिलाई सोहि बिहियामा लेखियाको ऐन्वोमोजिम गर्नु।
१४६ तन्मकॉ। झ्यान मार्याको मतलब गरी कुरिपृद गर्याका कुरामा हात गोडा
अग्नेन हाड मर्याको ज्यू जबन भन्या नभयाको था मर्याकी नभयाको जो नाइ
लाग्नाको ठउमाना नाउ भयाका ठउमाना नाउ भन्याको ठउमाना उस
ठउका जान्या भन्या मानिस्लाई हेन लगाइ उन्ले ठहरायामा उन्को ऐन्विसम भयाको
छ भन्या मुषुका लिखुकिलाई सोहि बिहियामा लेखियाको ऐन्वोमोजिम
गर्नु।

[16] झ्यान जान्या तकिसमा झ्यान लिना दामान गणि अर सज्जाए गन्नको ऐनौ
१४७ तन्मकॉ। उपदेय लागायत गैह ब्राह्मण जातले मानिस मार्याककु झ्यान जान्या
तकिसम गर्याको धुन्या लाग्नाको ठहराउने झ्यान नलिनु। ऐन [MA-ED3 p. 124]
वर्णजीविकीको अर खरबक्षो गरी दामान गर्नु।
१४८ तन्मकॉ। चार वर्ष छत्रिमै जातका ११ वर्ष नायाका कन्या अवख बिधवा
गैह द्व्यामला मानिस्लाई झ्यान जान्या तकिसम गर्याको धुन्या ब्रह्मणाका लाग्नाको ठहराउने झ्यान
लिनु। झ्यान द्व्यामला सज्जाए दामान गर्नु।
१४९ तन्मकॉ। नजपुत जातले मानिस मार्याको भन्या झ्यानको बदला झ्यान नको
मारिलिनु। जात गर्या ऐन्वोमोजिम साथुको खुिस अर खतलाई गयामा ऐन्वोमोजिम
सज्जाए गर्नु। झ्यान जज्जाई।
१५० तन्मकॉ। उपदेय लागायत ब्राह्मण जात जोि भन्या बाउ र माविको
पत्ना नलायाका जोि सब सितकिसन्त नियायका

For nabigryākā.
जहां भेद्वाले राखी उन्नाट जन्माका सत्ताः अौ बाँदु र मावलको पता नलामाका रमता फकिर कान चिन्वीका क्रान्त्याले ज्यानु जान्या तकिस पार्यां ज्यानु निस्त ऐत्वमोजिम अंश सर्वस्व गरि दामल गर्नु।

१५१ तपाइ। जबाण्या वाक्षः रजष्ट्व पता धारी मातिन्या मातिन्या मतिवालि गैठ जार दनस्थ जोणि जहां भेद्वान सत्ताः सत्ताः सत्ताः तुर्गन्यां गरि प्रिप्रेस्थ 

धर्मसा रहान्या एस्ता भेद्धालिते मानिस मधिया भन्न ऐत्वमोजिम अंशसर्वस्व गरि दामल गर्नु।

१५२ तपाइ। बाक्य वेद्वान सर्वानका मातिन्या मातिन्या मतिवालि गैठ जार दनस्थ जोणि जहां भेद्वान सत्ताः सत्ताः सत्ताः तुर्गन्यां गरि प्रिप्रेस्थ  

दयाल गन्त। काक्तिन्या जातका लोग्या मानिसले भन्न जानको बदला ज्यान सन्त नरक गैठं एस्ता व्यासनमि भन्न आफ नन्न लंगस र बाँदु र मावलको पता नलामाका रमता फकिर कान चिन्वीका क्रान्त्याले ज्यानु जान्या तकिस पार्यां ज्यानु निस्त ऐत्वमोजिम अंश सर्वस्व गरि दामल गर्नु।

१५३ तपाइ। जबाण्या वाक्षः रजष्ट्व पता धारी मातिन्या मातिन्या मतिवालि गैठ जार दनस्थ जोणि जहां भेद्वान सत्ताः सत्ताः सत्ताः तुर्गन्यां गरि प्रिप्रेस्थ 

दयाल गन्त। काक्तिन्या जातका लोग्या मानिसले भन्न जानको बदला ज्यान काटि मारिडिनु।

१५४ तपाइ। जबाण्या वाक्षः रजष्ट्व पता धारी मातिन्या मातिन्या मतिवालि गैठ जार दनस्थ जोणि जहां भेद्वान सत्ताः सत्ताः सत्ताः तुर्गन्यां गरि प्रिप्रेस्थ 

दयाल गन्त। काक्तिन्या जातका लोग्या मानिसले भन्न जानको बदला ज्यान काटि भन्न मानिस।
१५८. म्नसड जयात पसतत गरर घरि जयातमया समलयाक्रो र आफ्न भंदया घरि जयातमया करणि गरि वा भात पाणि गैह जात जान्या कुरो पाइ उसी जातमा मिलायाको मानिसको भन्न नकायाप्रिया जात पति भयाकाले मायाको भया ऐनवमोजिमको अंस सर्वस्व गरि दामल गर्नु। स्वान्त्रिक मानिस महार सर्वस्व नगरि त्यसै दामल गर्नु। कारिन्या जात पति भयाकाले २९८ भया ज्याको बदला ज्यान कार्डारिन्।

१५९. म्नसड जात पति गरि घटि जातमा मिलायाको र आफ्न भंदया घरि जयातमया करणि गरि वा भात पाणि गैह जात जान्या कुरो पाइ उसी जातमा मिलायाको मानिसको पति भयापिछि जन्याको संतानले मानिस मायाको भया ऐनले जीज जात भयाको छन् उसी जातका ऐनवमोजिम सजाए गर्नु।

१६०. निसाङले बेजाइ २९९ गन्यालाई कुटिपिट गर्नु पन्नै थियो ३।४ जनाले पक्रि कुटिपिट गदछ आफि बेजाई ३०० बिख्रु ३०१ गरि विराउन्या आफि हतियार चलाउन्या गरिएको रहिए भन्न ज्यान मायाको रहिए भन्न ज्यानको बदला ज्यान ज्यान ३०२ मायाको रहिए भन्न दार्च हर्च हतियार चलाइ घा लायामा आफि लूटियाको व्यन्तमा हतियार चलायाको हुनाले हानिकामा तमाड रोप्याकाम बैठ्यो नापि जति अनुपयोगको घाड छ उति धप खेि गर्नु। स्मालका रूपमा दिया लितु。

298 MA-ED3 bhayako.
299 MS2 bejāñī.
300 MS2 bejāñī.
301 MA-ED3 bīt.
302 MS2 omits jyāna.
B. Homicide Law: Translations

Translation of Article 64 of the *Ain* of 1854

On Homicide

[1. Homicide committed by privileged groups]

§ 1 If an Upādhyāya, Jaisī, Tehraũte, Bhaṭṭa [Brahmin] or the like

1 The initial translation of this Article was incorporated into my dissertation in 2017. As part of the first complete translation of the *Mulukī Ain*, the authors collaborated on a revision, and the revised version was subsequently included in the publication (see Khatiwoda, Cubelic & Michaels, 2021: 387–397).

2 The term Jaisī / Jośī, derived from Skt *jyotiṣī / jyautiṣika*, designates low-caste Brahmins who are astrologers by profession. The MA devotes a separate Article ‘On Jaisī Brahmins’ (*jaisī brāhmaṇako*) to this caste group, where it is defined and specific regulations relating to adultery for it are formulated (MA-ED2/115 §§1–4). The Article differentiates between two classes of Jaisīs, “true” Jaisīs (*asala*) (who rank higher) and common Jaisīs (*jaiṣī-jāta*). The offspring of an Upādhyāya Brahmin and a virgin concubine or a widow from the Upādhyāya caste, and the offspring resulting from a ritual marriage of an Upādhyāya Brahmin and a Jaisī girl are classified as higher / true Jaisīs. The offspring from either an Upādhyāya Brahmin or Jaisī Brahmin and a widowed Brahmin woman as a concubine, a grass widow (*āsā rāḍī*) or a Brahmin woman whose husband has lost his caste status and become a Śūdra but is still regarded as pure (*satyamā rahekā*) are referred to as common Jaisīs (MA-ED2/115 §§ 2–3). According to Levy and Bista, Jaisīs are not permitted to teach the Veda to twice-borns or to act as priests for Upādhyāya Brahmins or high-caste Kṣatriyas, such as Ṭhakurīs. However, they are allowed to study the Veda and perform sacrifices (*yajña*) for themselves (translated in M.C. Regmi 1970c: 277 from Bāburāma Acharya 1969, Levy 1990: 354–356 and Bista 1972: 5). As L.F. Jaisīs were very close to the Śāha kings and highly influential in contemporary politics. The Śāha kings relied on auspicious timings for important decisions, and these were ascertained by Jaisīs. For instance, it is said that Bhānu Jaisī and Kulānanda Jaisī read Pṛthvī Nārāyaṇa Śāha’s face and predicted that he would conquer the Malla kingdoms. See Acharya & Yogi 2013: 41.

3 Lit. ‘associated with the Tirhut region’. In the Nepalese context, the word refers to Jhā or Miśra Brahmins who migrated from the present south-eastern border of Nepal to the Kathmandu Valley (Bista 1972: 21).

4 This class of Brahmins, who are also called *dākṣināya* pandits, originally came from Maharashtra and were brought to Kathmandu by the Malla kings. The *smārta* rituals of the Paśupatinātha temple are still carried out by Bhattas from Karnataka (Levy 1990: 352 and Gutschow & Michaels 2005: 34, and Michaels 2008: 233).
(gaihra), or a Deși 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, he shall, in accordance with the Ain, be [subjected to the punishment of] being shaved (muḍinyā, dāmala), being imprisoned, fined and having [his share

5 The term gaihra implies all other classes of Brahmins that are not listed here who are classified as foreign Brahmins. The MA lists the following groups as such: Devabhāju (Rājopādhyāya), Tehrautā Brahmin, Marhaṭṭā Brahmin, Nāgara Brahmin, Gujṛati Brahmin, Mahārāstrīya Brahmin, Tailangī Brahmin, Drāvida/Dravid Brahmin and Madhisyā Brahmin (devabhāju tehrautā bhatta marhaṭṭā nāgara gujṛati, māhārāṣṭra tailangi drābīna madisyā deśi brāhmaṇa..., MA-ED2/150). According to their legend of origin, the Rājopādhyāyas, who serve as priests for high Hindu Newar castes, came from Kannauj/Kanyākubja in North India to Kathmandu together with King Harisiṃhadeva. Since Rājopādhyāyas consume certain kinds of meat, such as buffalo and chicken, and participate in Tantric rituals that deviate from Vedic standards, and because they are said to have a looser stance towards bodily purity in comparison with Parvaṭīya Upādhyāya and Jaisī Brahmins, they are not considered as high-caste Brahmins (cf. Levy 1990: 350). For their part, Karmācāryas or Ācājūs (Skt. ācārya), the Tantric Newar priests who act as assistants to the higher-ranking Rājopādhyāya priests in rituals (cf. Gutschow and Michaels 2005: 41) are not listed as Brahmins in the MA, and thus are not exempt from capital punishment.

6 The term deśī (adj.), Skt. deśīya, primarily refers to a fellow countryman or something associated with one's own country, while secondarily it also refers to a foreigner or something associated with a foreign country. In the MA, it is this secondary meaning that predominates, as exemplified in Section 18 of MA Article 28 on the ‘Escheated Property’: “If somebody, whether a foreigner or from our country, dies without a male son as heir and it is found that no brother (i.e., next of kin) is [present] in this country (lit. here), but there is in Hindustan (lit. there), the concerned authorities in the place of his domicile shall be informed in writing if his address is known—that he comes from such and such place., the chief of court shall inform the Munsī in writing and the Munsī shall send it to [the respective place]” (kyā deśī kyā hāmrā mulukakā mari aputālī pannākā dājyā bhāi kohi nāhā rahvānachan yo amakā jagāko ho bhamnārī thekānā pāiyo bhanyā āphara mulukako rahecha bhanyā jonā jagāko ho uhākā bhāradārahālāī leṣī nunsikā jinnā dinu munsibāta ramāṇā gari pathāunu…) (MA-ED2/28 §18).

7 ‘Rājapūta’, Skt. rājaputra, here refers to the members of the royal family and such high-class Kṣatriyas as Thakurīs. Since the Ain itself does not specify who falls under the Rājapūta category, membership may have been defined on the basis of customary practices. The name suggests royal blood or royal ties, and is specifically associated with the regional dynasty of Rājapūtanā, India (cf. NBS s.v. rajapūta), thus excluding normal Sacred Thread-wearing Kṣatriyas ‘tāgādhārī kṣatriya’. The Rājapūtas are said to have first come to the western hill regions of present-day Nepal in the 12th century. They are considered to be warriors in Hindu society. Sub-castes include the Raghuvaṃśīs, Cauhānas etc. (see Bista 1972: 111).

8 See the Article rajapūtakā hāḍanātā ‘Incest among Rājapūtas’ (MA-ED2/114).

9 The term muḍinyā, inf. muḍanu ‘to shave’, denotes a form of punishment according to which the perpetrator's share of property is confiscated, his sacred-thread is removed, and his head is shaved, including the śikhā (the single lock or
Translation of Article 64 of the Ain of 1854

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.

§ 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),

tuft left on the crown of the head after tonsure). He is forced to consume alcohol and pork. Additionally, the offender is degraded to a Non-enslaveable Śūdra caste if he belongs to a Sacred Thread-wearing caste. If he already belongs to a Non-enslaveable Śūdra caste, his property is confiscated, he is forced to eat dog meat, his head is shaved and he is degraded to the Bhoṭyā caste. Both classes of offenders are exiled to the other side of the river in the east if they come from the west or vice versa (see MA-ED2/42 §1).

The terms sarvasva and aṃśasarvasva are used in the text interchangeably. Their more exact meaning is elaborated in MA-ED2/43 §3 as 'confiscation of the offender’s share of property which he is entitled to receive in accordance with the Ain’ (aina bamojima aṃsa para sari… aṃsa sarbasva garnu).

See MA-ED2/114 for detailed regulations for dealing with incest committed by Rājapūtas. The MA always uses the term sādhu for the husband of an unfaithful wife and jāra for the paramour of a married woman (cf. Höfer 2004: 48–49; also see NBŚ s.v. sādhu and jāra).

The Daśanāmī ascetics, who nowadays have mostly reverted to living as householders, belong to a sect consisting of ten different clans: āśrama, tīrtha, vana, araṇya, girī, parvata, sāgara, sarasvatī, bhāratī and purī. They are followers of Śaṅkara.

The term ‘yogī/jogī’ generally refers to Kānaphaṭṭā/Kanaphaṭṭā ascetics, who are disciples of Gorakhanātha. However, the MA uses ‘yogī’ here as a generic term to designate any ascetic from any group or sect.

This group of ascetics follow the Viṣṇaśaiva or Lingāyata tradition. It is believed that Jaṅgamas can establish contact with the souls of deceased persons, and so are able to pacify ones that are unliberated. According to legend, Mallikārjuna was the first Jaṅgama ascetic to come to Bhaktapur, having been called there by King Viśva Malla (r. 1548–1560). In Nepal, Jaṅgamas are found only in Bhaktapur (see Bouillier 1983).

Sevaḍās belong to the tradition of Jaina ascetics.

Although the phrase kasasita nabigryākā modifying vidhu’ (widow) literally means ‘broken by /with nobody’, the MA uses the term bigranyā (v. inf.) in the meaning of ‘to be polluted by an illicit sexual intercourse’. For instance, the term appears in the chapter ‘jātako rīta bhayā pachi bhīnah avid biṅganyā’ (Illicit Sexual Intercourse before Marriage after [an Unmarried Girl] Has Been Betrothed to Another Person by Performing the Caste's Customs), where such conduct on the part virgin girls from all caste groups is dealt with (see MA-ED2/104 §§1–6).

The term ramatā literally means ‘wanderer’. In our context, Ramatās are ascetics who constantly travel from one pilgrimage place to another. Since they are
a fakir\textsuperscript{18} or a Kanaphaṭṭā\textsuperscript{19} 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.\textsuperscript{20}

\textsection{4} If the offspring of all Sacred Thread-wearing Kṣatriyas, of the Alcohol-drinking castes\textsuperscript{21} and of the Śūdra castes who have been shaved (\textit{muḍiyāko}, i.e., who have become ascetics)\textsuperscript{22} by an [ascetic such

wandering ascetics, they may belong to any sect. They are considered as foreigners, and as typically coming from India.

\textsuperscript{18} \textit{Phakira} is an Arabic term. Like \textit{yogī}, it may refer to any Hindu ascetic.

\textsuperscript{19} Kānaciryākās or Kānaphaṭṭās (lit. ‘split-eared’) are followers of Gorakhanātha. They split their earlobes and insert huge ear-rings as a distinctive mark (see Briggs 1982: 1).

\textsuperscript{20} The MA does not provide a consistent enumeration of the various groups of ascetics (see MA-ED2/64 \textsection{3} and \textsection{4} and MA-ED2/88 \textsections{1–5}). Still, even though it does not specify their individual status within the caste hierarchy (see Höfer 2004: 106–107), it does define which groups are spared the death penalty for committing murder. Except for the classes of ascetics mentioned in Sections 3 and 4 (MA-ED2/64), all others are subjected to capital punishment. Thus, the MA considers as a Brahmin a child born by a Brahmin widow to an ascetic Jaisī Brahmin, an ascetic Rājapūta or an ascetic whose maternal descent is unidentified and therefore exempts the males from capital punishment. The MA is, in other words, hesitant to impose capital punishment on persons whose Brahmanical status seems to be questionable from an orthodox point of view.

\textsuperscript{21} The term \textit{matavālī/matusvālī} (adj., derived from Skt. \textit{matta}; inf. \textit{mātu} lit. ‘drunk’) designates a member of an Alcohol-drinking caste group. When used in this section, it refers to both Non-enslavable and Enslavable Alcohol-drinkers (\textit{māsinyā matavālī} and \textit{namānisvā matavālī}). Further, the term Śūdra also stands for both impure but touchable and untouchable castes (\textit{pāni nacalne choi chīto hālu naparne} and \textit{pāni nacalne choi chīto sameta hālu parne}). See above (Part I, 1.7) for the detailed discussion of the caste system as recognised in the MA.

\textsuperscript{22} The term \textit{muḍiyāko} (adj. and pp. of the inf. \textit{muḍu}; Skt. \textit{munda}) literally means ‘one whose head has been shaved’. Here it refers to someone who has joined an ascetic group by undergoing a shaving ritual as initiation. The MA provides a separate Article regulating the conversion to asceticism (MA-ED2/88). The following provisions can be found there: (i) If an ascetic forces any non-initiated child below twelve years to become an ascetic, he is to be stripped of his status and imprisoned, his property is to be confiscated, and he is to be fined according to his status. Nevertheless, the initiate can be readmitted into his/her caste by undertaking expiation (MA-ED2/88 \textsection{1}); (ii) if a married woman or concubine is forced to become an ascetic, the perpetrator is to be exiled from the realm and the victim, provided she has not had sexual intercourse with another man in the interim can be readmitted into her caste by undertaking expiation (MA-ED2/88 \textsection{2}); (iii) if an ascetic forces a virgin girl or a widowed or married woman below the age of sixteen to become an ascetic and attempts to take her from her place of domicile, he is to be put in prison for one year and afterwards exiled. On the other hand, if the victims take that step of their own volition, no punishment will ensue (MA-ED2/88 \textsection{3}); (iv) if a married woman becomes an ascetic of her own volition and continues to follow ascetic practices, she is allowed to follow her practice if she has already accepted rice from her ascetic teacher and has not eloped with any other man. Her husband is permitted to have sex with her but not to accept cooked rice from her (MA-ED2/88 \textsection{4}); (v) if children aged
as] Daśānāmī, Jogī, Jaṅgama or Sebāḍā, as well as the offspring born to a Daśānāmī, Jogī, Jaṅgama or Sebāḍā 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.²³

[2. Homicide by a mute or dull person]

§ 5 If someone who is of sound mind,²⁴ 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 life. If a dull (gvā̃go) person who does not know what is to be done and what not, kills another person, he shall be imprisoned for 12 years.²⁵

As mentioned above, the MA neither specifies a caste hierarchy for ascetics nor distinguishes between real, household, temporary or other groups of ascetics. The MA uses the terms jogī, sanyasi and phakira to refer to any kind of ascetic irrespective of the sect they belong to. One reason for such lack of classification may have been to avoid having to impose the death penalty on ascetics of Brahmanical origin. Another reason might simply be the idea of asceticism according to which everything including one’s own caste, customs and identity are to be left behind. Consequently, many ascetics even change their name after their initiation (for a detailed discussion, refer to Dumont 1980). The MA gives in the Article ‘phakirasita muḍinyā’ (‘On Shaving by an Ascetic’) the following list of ascetic groups: Jogī, Samnyāsī, Vairāgī, Nānaka, Udāsī, Jamgama, Sebāḍā, Ramatā and Mathadhārī (MA-ED2/88 § 1), whereas Daśānāmī, Jogī, Jaṅgama, Sebāḍā, Ramatā, Phakira and Kānācīrā-kānaphaṭṭā are listed in the Article ‘On Homicide’ (see § 3 and § 4 above). According to A. Höfer, the Kānaphaṭṭās, Daśānāmīs, Jogīs, Samnyāsīs, Udāsīs, Jagamasons and Sevadās are Shiva sects, whereas Vairāgīs is a Vaisnava sect and Nānakas (śikha) are syncretistic in orientation (see Höfer 2004: 106). The exemption from capital punishment for ascetics goes back to the pre–Mulukī Ain period. In the edicts of King Rāma Śāha such exempted ascetics are labelled as sanyāsīs or vairāgīs, general designations for ascetics (see RSEdict 15, and also Riccardi 1977: 53). The MA modifies this general regulation by specifying that only ‘ramatās, phakiras or kānācīrā-kānaphaṭṭās whose father and maternal antecedents are unidentified’ (see § 3 above) are exempt from death punishment.

Although the phrase sabai thoka thāhā pāunyā literally means ‘one who knows everything’, it seems to refer mental competence as a prerequisite for being held legally responsible for one’s deeds.

The term gvāgo is the opposite of caturo and refers to a person who is not completely mentally disabled but is slow of grasp. The use of the term gvāgo suggests that offenders who are judged to be simple-minded (bahulā, see
[3. Homicide by women]

§ 6 If a widow or married woman or an unmarried girl past the age of 11 from the Four Varṇas and Thirty-six Jātas kills a person, she shall be punished by dāmala, but [her property] shall not be confiscated.26

§ 7 If a woman from the Four Varṇas and Thirty-six Jātas kills her own children or husband, she shall be punished by dāmala and shall be put into the Golaghara27 prison with her hands and feet fettered. Four paisās as ration (sidhā)28 [for food] shall be given to her and she shall not be taken out [from the Golaghara].

NBS under s.v. gvā̃go, lathepro and susta) were excluded from punishment or received a more lenient sentence.

26 The punishment for murder exacted upon women is even less than that for Brahmins in the MA. Whereas Brahmins are subjected to having their entire property confiscated along with branding (see MA-ED2/64 §1), women are only punished with branding. The MA of 1870 gives as the reason for not executing women that killing them is a sin (strīhātyā lāgnē hunāle, see MA 1870 §148). The matter of not confiscating a woman’s property is also a discussed in the separate Article sarvasva gardāko (‘On Confiscation’) (see MA-ED2/43 §1). Noteworthy, too, is that relatives of women doing prison time can assume their punishment for them (see MA-ED2/51). The MA portrays the protection of women as one of the unique features of the Ain, and Nepal as the only Hindu kingdom in the Kali era where cows, women and Brahmins are not killed (hidũrāja gohatyā nahunyā, strīhātyā nahunyā vrahmahatyā nahunyā esto ain bhayāko ... yasto punyabhumī āphānū muluka chadā chadai kalimā hinduko rājā yeśi mulukamatrai cha, MA-ED2 185/1 §1).

27 ‘Golaghara (gola+ghara)’ literally means a round-shaped building. The golaghara is a separate cage-like area of confinement within a prison. Brutal murderers or robbers are placed there to deprive them of contact with other prisoners and visitors (see NBS under s.v. golaghara). According to Agrawal, every jail had a golaghara under a diṭṭā (cf. H. N. Agrawal 1976: 65). He further mentions that the first jail went into operation in Kathmandu in 1941 V.S. and was administered under two officers called an ‘arzbegi’ and ‘jail Diṭṭā’. This is belied by the fact that the MA mentions jails already in VS 1910 (see MA-ED2/36).

28 The term sidhā (Skt. siddhānna) literally means a ritual gift of raw grains offered to Brahmins. In the legal context, it refers to a fixed amount of food that prisoners are entitled to receive from the state. The MA provides a separate Article on this subject, ‘On Giving Rations to Prisoners and Employing Them for Constructing Roads’ (sidhā dinyā sadaka khodāunyā). According to this Article, certain groups of prisoners were not allowed to be taken out of the jail; for instance, a man who was punished by branding and imprisonment for committing murder. Instead, such persons were always kept confined and given four paisās as a daily ration. By contrast, a woman punished by branding and imprisonment for committing murder could be given the work of grinding gunpowder (bāruda) and received a ration of six paisās. If she was not given any work, she too would have been given the standard four paisās (see MA-ED2/53 §2).
[4. Joint murder]  
§ 8 If somebody kills a person jointly with several people during a legal dispute about land, money, non-monetary property, 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

29 The term nagada refers to currency in form of paper or metal and is to be distinguished from jinsi (var. jinīsa, jinis), which denotes all movable property other than cash, land or houses. Here the term can be understood as any form of monetary obligation, e.g., those between debtor and creditor, property owner and tenant, or tax authority and taxpayer. Regmi (1978c: 65) records a similar example involving this term: in 1895 a specific levy in cash on each homestead, called khāniko nagadī or phalāmako nagadī, was collected in the Baishkhanı mining region (Gulmi-Baglung).

30 For the legal regulations regarding disputes over four-footed farm animals (caupāya), see MA-ED2/71.

31 The MA knows of two types of slaves, full slaves (kamārā kamārī) and bonded slaves (bā̃dhā kāmārā kamārī). The more than twenty-eight pages taken up with the different legal aspects of slavery form a considerable portion of the MA (MA-ED2/28 §§ 10 and 12, MA-ED2/80, MA-ED2/81, MA-ED2/82, MA-ED2/83 and MA-ED2/85), an indication that mid-nineteenth century Nepal witnessed a large number of legal cases having to do with slavery. According to the MA, a person could be enslaved either as a result of being sold or of a penal verdict. Slaves who had been punished by enslavement for criminal offences were regarded as state property (see Höfer 2004: 100). A. Höfer (2004: 100 fn. 49), referring to the MA-ED2/160 §§ 15 and 17, argues that slaves did not lose their original caste status. This seems to be a misreading, however, of the first of these two sections. The section in question reads: “If a female slave who comes from a Sacred Thread-wearer or Water-acceptable caste group and has committed adultery with a man of a Water-unacceptable or Untouchable caste group—if such a slave] consumes rice together with the fellow caste members or commits adultery [with any of them], she shall be punished by being imprisoned for one year, being stamped bodily (khodī) with the [initial] letter of the caste [of the man with whom] she committed adultery first [on her body] and by being deprived of [the right] to drink water together with her fellow caste members…” (tāgādhāri lagāyet pāni nacalnyā jātakā kamārile pāni nacalnyā ra choyā chito hālanuparnyā jātakā lognyāsita karanimā bigri āphu mildāli bhātamā ra arūlāi pānimā borica bhanyā ra karani garāicha bhanyā 1 varṣa kaida gari usai jātko 1 aksara khodi pāni bāheka gari ..., MA-ED2/160 §15). Depriving someone the right to share water with fellow caste members amounted to the loss of caste.
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, 32 [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 [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; 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.

32 The phrase rātadināka vicāmā literally means ‘in the middle of day and night’. However, in our context it means ‘during day or night’.
§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 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.

[5. Self-defence]
§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.\footnote{This section suggests that if an assault is conducted by non-lethal means, the use of lethal weapons for self-defence is lawful only when there are more than two assailants.}

§ 12 If a man or woman, with the intention to kill cuts someone’s throat,\footnote{The verb \textit{reṭnu} in the context of killing conveys the sense of cutting the throat slowly. Another verb, \textit{sernu}, is synonymous with it (see NBŚ and T s.v. \textit{reṭnu} and \textit{sernu}). Specifically, \textit{reṭnu} expresses the method of sacrificing animals by letting the blood drip from the carotid artery.} stabs them, strikes them, crushes them under a log or rock, 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 
\textit{dāmala} and his share of property shall be confiscated, if he is a Brahmin or an ascetic \footnote{This passage formed the original Section 13, in the first edition of the MA, but was revised in the first amended version, i.e., MA-ED2 (see section 13kh). Therefore, MA-ED2 does not record it. The MA-ED1 has both the original and amended passage (MA-ED1 65/ §§13kh and 13b). Unlike the amended section, the original passage does not specify the period of time within which the offender is responsible for the death of the injured victim.} as specified according to the \textit{Ain}, and a female [offender] shall be punished by \textit{dāmala}, but no property shall be confiscated. [Offenders] from the other castes shall be executed—taking life for life.

\textbf{[6. Bodily harm with lethal consequences]}

§ 13\footnote{This section suggests that if an assault is conducted by non-lethal means, the use of lethal weapons for self-defence is lawful only when there are more than two assailants.} If somebody hits an unscathed person (\textit{sābuda mānisa}) 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 \textit{Ain}, be punished by \textit{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 \textit{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,36 emaciation (khabatū)37, or dies by falling, being swept away, or being bitten by something which has teeth, [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.

§ [13kh] 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, emaciation (khabatū), 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.38

§ 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 days39 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 subjected 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.

36 T (s.v. āthe) defines āthyā as ‘a sort of remittent fever occurring on every eighth day, regarded as very fatal’.
37 The term khabatū literally means ‘thin’ or ‘lanky’. It probably does not here denote any particular disease but refers rather to the health condition of a person that loses weight for some unknown reason (see. NBŚ s.v. khapate).
38 The relevant Article is kuṭapīta jyū jakham ‘On Brawling and Bodily Injury’ (MA-ED2/56).
39 The time frame given here is not to be understood literally but as an idiomatic expression for ‘a couple of days’.
§16 If someone slaps a person on the cheek or hits [him] once on a sensitive part of the body (*kuthāū*) with his hand or with a lock bar 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. 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.

[7. Death under arrestment]

§17 If somebody lodges a complaint against a murderer, thief, any other criminal (*bāpatī khatukī*) 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 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.

40 The term *kuthāū* (suffix *ku+ṭhāū̃*) primarily means ‘bad place or improper place’ and secondarily refers to the sensitive and vulnerable bodily organs (see NBŚ s.v. *kuthāū̃*).

41 The NBŚ (s.v. *argalā*) records the term *argalā*, which is probably a vernacular form of *arghyālo*, denoting a wooden door bolt.

42 The meaning of these two terms is not distinguishable. Both terms denote a convicted criminal, especially one accused of committing adultery or theft (NBŚ s.v. *khatukī, bāpatī*).
§ 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 (линадина)\(^\text{43}\) 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.

[8. Extradition]

§ 20 If someone kills a person and flees towards Madhesa\(^\text{44}\) 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 Kājī 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].

\(^{43}\) Lit. ‘taking and giving’. This refers to such transactions as credit arrangements and sales contracts that involve future obligations on the part of one or more of the parties.

\(^{44}\) The term madhyeśa (Skt. madhyadeśa and var. madeśa/madesa) literally refers to the flat land south of the Himālaya, north of the Vindhya Mountain range, east of Kuruksetra and west of Prayāga. This means that the southern flatlands in the possession of the Nepalese state fell at that time within Madeśa. In this context, however, the term refers to the expanse of flat land controlled by the British in colonial India. The other term, bhoṭa, used to designate Tibet, also supports the argument that both terms were used to indicate neighbouring realms (see also NGMPP K 175/18, Document 4 below).
[9. Failure to provide assistance]
§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, sima or cahāra categories. If the fine is not paid, they shall, in accordance with the Ain, be imprisoned. 45

[10. Exceptions from homicide law and failure to report about homicide]
§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 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, jeṭhā-buḍhās, gauruṅs 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. 46

45 The notion of punishing those who do not respond to a victim’s cry for help is found in dharmasāstra. For example, one of Nārada’s injunctions states that whoever does not go to help a victim when appealed to shares the culpability of the offender. It reads: śrutvā ye nābhidhāvanti te pi taddoṣabhāginaḥ […] (Whoever, having heard [a cry for help from a victim], does not run [to assist him], is an accomplice to the delict […]. NārSm 14.19).

46 The people listed here are state functionaries on the local level. Dvāryā is the designation for a village headman in the Kathmandu Valley (see M. C. Regmi 2002: 298) and for an official in a village who can arrest petty offenders and try petty cases (see Stiller 1981: 379). The mukhiyā was a village-level revenue functionary or a village chief (see M. R. Panta & Ph. Pierce 1989: 93, also Karmacharya 2001a: 325). The term was also used for scribes in the central administrative offices. In the Kausī and the Kota Bhaṇḍāra, the mukhiyās kept accounts of receipts and expenditures (see Edwards 1975: 107, also M. C. Regmi 1978a: 228). The tharī, according to M. C. Regmi, is a nonofficial tax collection functionary, especially in in the hill districts (M. C. Regmi 1978a: 867). The nāike (var. nāike, see NGMPP DNA 13/72) literally means a leader of any kind of group or village (see NBS s.v. nāike). According to Regmi, they were leaders of rakama-work teams (M. C. Regmi 1978a: 862). The mahānyā was a local revenue functionary in the Kathmandu Valley or a leader of a rakama-work team (see M. C. Regmi 1978a: 862). The title pradhāna applied to several different functionaries. To those who were headmen of certain communities within the
[11. False accusasion]
§ 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.

[12. Assault on security personnel]
§ 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.

[13. Permitting or facilitating escape]
§ 25 If someone lets a murderer escape, who earlier had been forbidden by a lālamohara 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.

Kathmandu Valley and local officials who collected revenue in villages within the Valley (Edwards 1975: 109). According to M.C. Regmi, however, there were four pradhānas in the Valley to assist the dvāres in discharging similar functions (M.C. Regmi 1970a: 224). The mijhāras were revenue collectors or headmen of certain lower occupational castes and Mongoloid communities, such as Tamaauta and Lōhāra. They collected levies from the families of castes or communities under their jurisdiction (Karmacharya 2001b: 92). Jeṭhā-budhā literally means ‘elder man’. It used to be applied to elderly and experienced village notables. According to Whelpton, it was also applied to royal messengers and investigators (Whelpton 1991: 283). The post gaurūṃ, according to Karmacharya, was a village agent who served under a mukhiyā (Karmacharya 2001b: 92). The post kaṭuvālyā was another civil functionary.
[14. Attack on security station]
§ 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.

[15. Attempted homicide]
§ 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, ĥānā 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.

[16. Regulation on capital punishment]
§ 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.

[17. Bodily harm without lethal consequences]
§ 31 If someone dies having jumped or having [accidently] 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.

[18. False accusation in a doubtful case]
§ 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].

[19. Homicide under influence of drugs]
§ 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 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.

[20. Homicide by a person of unsound mind]

§ 35 If someone consumes an alcoholic drink (jāḍa-raksī), liquor (ara-ka), opium, bhāṅga,47 dhaturo48 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 dāmulta 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 caste 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 dāmulta 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 dāmulta 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

47 An intoxicating drink made from hemp leaf.
48 Thorn-apple, the seeds of which are intoxicating and poisonous.
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.

[21. Homicide of a sick or wounded person]
§ 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. 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 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 ghadī 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.’

[22. False accusation]

§ 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 *beḍi* 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 *addā*, *gaudā*, *adālata* or *amāla* [to stand trial] in a case involving homicide, and if he confesses to the crime and is brought before the *Itācapalī* [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*.

49 A fee for the initiation of a trial concerning debt recovery.
50 “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” (Khatiwoda, Cubelic & Michaels 2021: 863).
Translation of Articles 1–4 in the 3rd Part of the 1870 Ain

On Homicide

[1] On assaulting a sentry

§1 If somebody discharges a weapon, [such as] a rifle [or] an arrow, at a sentry [guarding] a fortified entrance (deudhī) [or] an armoury/treasury, [or assigned] to any other location by [lawful] order or command (hukum kamān) [for the purpose of] safeguarding money or goods, animals or persons; or else [shoots at] persons on a shift patrolling [the streets] [or] doing night duty, [thereby] injuring [them], [the assailant] discharging the weapon shall be executed—taking life for life—[irrespective of] whether the man on the shift dies or not. Even if only blood is drawn, [the assailant] shall be executed. If it turns out that [the assailant] has fired (calāunu) a weapon but no blood is drawn, [the assailant] shall be branded.

§2 If anybody wielding a weapon at a guard post or sentry box established by royal decree (hukumale rahanu) kills or incapacitates a sentry, irrespective of whether the victim dies or survives with injuries, he who wields the weapon at the guard post shall be branded if he belongs to a caste group whose members are to undergo dāmala when charged with convicted murder, [while] if he is from a caste group whose members are to be sentenced to death, he shall be executed.

§3 When a guard or sentry prevents somebody from entering a locality which the guard or sentry is assigned to guard by royal decree and [that person] unsheathes a weapon or points a rifle [at him], the guard or sentry shall kill him. No blame shall be assigned.

§4 Whoever, having taken a bribe or out of greed or partiality (kharkhusāmat mayāmolāhijā), lets a murderer escape along a route that has previously been closed to travel by a lālamohara or daskhata

51 The term deudhī (Skt. dehalī var. deudhī or dyaudhī) signifies a gate or building entrance (see NBŚ s.v. deudhī and also MW s.v. dehalī).

52 Broadly speaking, the terms hukum and kamāna have the same meaning, but they are used in slightly different contexts. A hukuma (Per. hukma) is an order usually given by kings, prime ministers or high-ranking civil officers, whereas kamāna is borrowed from the English command and used in the sense of a military order (see NBŚ s.v kamāna).

53 The terms ramana and bikata are almost identical in meaning. The former refers to persons deputed to patrol the streets, while the latter is the indigenised form of English picket and signifies persons posted to stand guard so as to prevent burglary, robbery and the like, especially during the night (see NBŚ s.v. ramana and bikata).

54 The form kāti is the absolutive of kānu, which literally means ‘to cut’.
shall be branded. If [someone] lets a thief escape, whatever [amount] is stolen shall be taken from him who lets the thief escape. If the thief is found, he shall be turned over to the person [who let him escape,] and that person shall be told to recover the fine [from the thief] and return it [to the court]. If someone lets a fleeing perpetrator of some other [crime] escape, he shall be punished with the same punishment and fine as prescribed for the escapee.

[2] The law to be imposed in cases of unintentional manslaughter and injury

§ 1 When somebody during the night strikes what he misperceives as an animal or something else and a human, who dies in, the [act] shall be taken as a mishap (bhora) if it is apparent that the slayer and the deceased harboured no [mutual] malice or engaged in a dispute [concerning] some matter—[each other's] physical body (jyū), land, wives, [material or landed] property, cattle etc. [In such circumstances] the slayer shall not be charged with murder. The slayer shall be granted expiation for having committed manslaughter after being made to pay 50 rupees to cover expenditures for the funerary rites of the deceased, made to visit 1 place of pilgrimage [and] made to give, as a religious fee (godā-na) to the dharmādhikārin, 15 rupees for abbala [land], 10 rupees for doyama [land], 5 rupees for sima [land] and 2 rupees for cahāra [land].

§ 2 If somebody hunting in a jungle discharges a rifle or arrow without being certain that [the target] is a deer or [other] animal, and a human dies in that shooting, it shall be considered as an accident if it is apparent that the slayer and the deceased had previously harboured no [mutual] malice or engaged in a dispute [concerning] some matter. The slayer shall be made to pay 50 rupees to cover expenditures for the funerary rites of the deceased. He shall not be accused of taking a life. If [the victim] did not die but was only injured, he who shot shall be made to pay 10 rupees as general damages for pain and suffering (ghākharca). No other blame shall be assigned.

§ 3 When somebody, in [trying to] strike a land animal or bird with a stone, cane or stick (jhaṭāro), or to cause fruit to fall [from a tree], hits [instead] a human and that person dies, it shall be taken as an accident if it is apparent that the striker and the deceased had previously harboured no [mutual] malice or engaged in a dispute [concerning] some matter. No action shall be taken against him who took [the other's] life. The striker shall be made to pay 50 rupees to cover the expenses of [the victim's] funerary rites. If the [victim] did not die but was only injured,
the striker shall be made to pay 10 rupees as general damages for pain and suffering. No other blame shall be assigned.

§ 4 If somebody, in discharging a rifle inside a city or village, near a city or village, or along an alley or path—[any] place where people frequent—without [first] impelling people to remove themselves [from the line of fire] and without taking [other] measures lest they be hit by a bullet, shoots a person and [that person] dies, it shall be taken as an accidental [occurrence] if it is apparent that the shooter and the deceased had previously harboured no [mutual] malice or engaged in a dispute [concerning] some matter. The shooter shall be made to pay 100 rupees to cover the expenses of [the victim's] funerary rites. No action shall be taken against him who took [the other's] life. If the [victim] did not die but was only injured, [the shooter] shall be made to pay 50 rupees as general damages for pain and suffering. No other blame shall be assigned.

§ 5 If, because of [implement] breakage, slippage or [other] loss of control when being discharged, a person is struck by an arrow or bullet shot from a bow, rifle or handgun, or by a sword or khukurī 55 while an animal is being slaughtered, and that person dies, it shall be taken as an accidental [occurrence] if it is apparent that the slayer and the deceased had previously harboured no [mutual] malice or engaged in a dispute [concerning] some matter. The slayer shall be made to pay 50 rupees to cover the expenses of [the victim's] funerary rites and be made to undertake expiation by compelling him to pay 5 rupees as a religious fee (godāna) to a dharmādhikārin. No action shall be taken for having taken [the other's] life. If the [victim] did not die but was only injured, the slayer shall be made to pay 10 rupees as general damages for pain and suffering. No other blame shall be assigned.

§ 6 If a person dies through being struck by an axe, khukurī, sickle (khurpā), wood-cutting knife (cupī) or the like which has slipped out of [the wielder's hand] while cutting a tree or log, it shall be taken as an accidental [occurrence] if it is apparent that the slayer and the deceased had previously harboured no [mutual] malice or engaged in a dispute [concerning] some matter. The slayer shall be made to pay 20 rupees to cover the expenses of [the victim's] funerary rites and be made to undertake expiation by compelling him to pay 5 rupees as a religious fee (godāna) to a dharmādhikārin. No action shall be taken against [the

55 A knife with an inwardly curved blade, used both as a tool and as a weapon; for an illustration (see Kirkpatrick 1811: 118–119).
slayer] for having taken [the other's] life. If the [victim] did not die but was only injured, the slayer shall be made to pay 5 rupees as general damages for pain and suffering. No other blame shall be assigned.

§7 If a tree when being felled topples, a branch when being cut falls, or a log when being sectioned gets out of control, or when wood is being dragged or rolled—when, [for example,] trees are being felled and wood being dragged when a field is being cleared and ploughed—[and a person] is crushed [to death]; or else when a path, water channel or temple is being constructed or a mound being levelled, a person or cattle are hit by a stone [or other] round object—[for example,] bricks or wood which has slipped out of control and could not be stopped—it shall be taken as an accidental [occurrence] if it is apparent that the slayer and the deceased had previously harboured no [mutual] malice or engaged in a dispute [concerning] some matter. He who occasioned the falling of [such objects] need not pay [any sum] to cover the expenses of [the victim's] funerary rites, nor need he undertake any expiation. No blame shall be assigned.

§8 In cases where 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, the latter having had insufficient strength to hold them back, it shall be taken as an accident if it is apparent that the person leading them across the river and the deceased had previously harboured no [mutual] malice. No blame shall be assigned to him who had been holding on [to the deceased]. He need not cover the expenses of [the victim's] funerary rites nor undertake any expiation.

§9 If a person or four-footed farm animal dies upon falling into [such] traps [as] a solā phyāṅ, solā phadkyā, darjan or dharāpa set up on paths in [or around] a redoubt, path, fortress or fort that were closed down earlier by order of His Fivefold Venerable Majesty [the King], no blame shall be assigned either to him who had ordered [the trap] to be set up or him who set it up. They need not cover the expenses for [the victim's] funerary rites nor pay general damages for pain and suffering. They need not pay an expiatory fine nor undertake any expiation.

§10 Except in cases where a tiger, bear, boar or the like has slain a human or four-footed farm animal or else eaten standing or harvested crops, nobody shall set up traps for hunting [them]. If somebody does set up a trap and a human dies upon falling into it, he who set up the trap shall be [punished] by confiscating his share of property in accordance with the Ain [and] taking ten percent of it; by being made
to give compensation [enough] to [cover] all the expenses of the deceased’s funerary rites; and by imprisoning [him] for 6 years. If the fine [required for avoiding imprisonment] is paid, it shall be accepted and he shall be set free. If [the victim] did not die but was only injured, [the offender] shall be made to pay 50 rupees as general damages for pain and suffering and shall be fined 50 rupees. If only a four-footed farm animal fell into [the trap and died], [the offender] shall be compelled to pay that animal’s owner an amount settled upon by pañca (an assembly of elders forming a local judicial body) and be fined an amount equal [to that paid to the owner].

§ 11 If, as a countermeasure to a tiger, bear, boar or the like having killed a human, somebody sets a trap, such as a solā, phyāṅ, phaḍkyā, darjana or dharāpa, after informing [persons in advance] at the village, [but] without guarding [the approach to the site] at night himself, and some person other than those who have been notified in advance falls into the trap and dies, he who set the trap shall be compelled to pay 25 rupees for the expenses of the [deceased’s] funerary rites and be fined 25 rupees. If the [victim] does not die but is only injured, [the setter of the trap] shall be made to pay 12 rupees as general damages for pain and suffering; however, he shall not be subjected to a fine. If a person who has been notified in advance falls into the trap, [the setter of the trap] need not pay the expenses either for [treating] an injury or for funerary rites, nor need he pay a fine or [undertake] expiation.

§ 12 If, as a countermeasure to a tiger, bear, boar or the like that, rather than killing a human, has only eaten standing or harvested crops or [killed] a four-footed farm animal, somebody sets a trap or the like, after informing [persons in advance] at the village, [but] without guarding [the approach to the site] at night himself, and some person other than those who have been notified in advance falls into the trap and dies, [the authorities] shall compel the one who set the trap to pay 50 rupees for the expenses of the deceased’s funerary rites and fine him 50 rupees. If [the victim] did not die but is only injured, [the setter of the trap] shall be made to pay 12 rupees as general damages for pain and suffering; however, he shall not be subjected to a fine. If a person who has been notified in advance falls into the trap and dies, [he who set the trap] shall be compelled to pay 6 rupees as general damages for pain and suffering; however, he shall not be subjected to a fine, nor need he [undertake] expiation.
§13 If, as a countermeasure to a tiger, bear, boar or the like having killed a human [or] four-footed farm animal or having eaten standing or harvested crops, somebody sets up a trap—a solā or the like—after informing [persons in advance] at the village, and a four-footed farm animal falls into the trap and dies, no blame shall be assigned to him who set the trap.

§14 If, as a countermeasure to a tiger, bear, boar or the like having killed a human, somebody sets a trap—a solā or the like—along a path, at a public water source [or] in a bārī, kareso or the like without informing [persons in advance] and without guarding [the approach to the site] at night himself, and some person falls into the trap and dies, the whole of the property of him who set the trap shall be confiscated in accordance with the Ain, with ten percent (dasauda) of it taken [as a fine]; in addition, [the offender] shall be compelled to pay for the expenses of the deceased's funerary rites and shall be imprisoned for 6 years. If [he] pays the sum [for waiving the prison] term, it shall be accepted. If [the victim] does not die [but] is only injured, [the setter of the trap] shall be made to pay 50 rupees as general damages for the pain and suffering and be fined 50 rupees.

§15 If, as a countermeasure to a tiger, bear, boar or the like having killed a human, somebody sets a trap—a solā or the like—along a path, at a public water source [or] in a bārī, kareso or the like without guarding [the approach to the site] at night himself, and a four-footed farm animal falls into the trap and dies, no blame shall be assigned to him who set the trap.

§16 If, as a countermeasure to a tiger, bear, boar or the like that, rather than killing a human, has only eaten standing or harvested crops or [killed] a four-footed farm animal, somebody sets a trap—a solā or the like—along a path, at a public water source [or] in a bārī, kareso or the like, without informing [persons in advance] at the village and without guarding [the approach to the site] at night himself, and a person falls into the trap and dies, the share of property of the one who set the trap shall be confiscated in accordance with the Ain, with ten percent (dasauda) of it taken [as a fine]; in addition, [the offender] shall be compelled to pay for all the expenses of the deceased's funerary rites

56 A flower or vegetable garden around a house. The word is related to Sanskrit vāṭikā.
57 The term kareso (Skt. gṛhāṃśa) denotes the portions of land belonging to a household other than the area taken by the house itself and the front yard (i.e., the areas along the sides and to the back of the house).
58 This Section is very similar to Section §13 above.
and shall be imprisoned for 6 years. If [the setter of the trap] pays the sum [for waiving the prison] term, it shall be accepted and he shall be set free. If [the victim] does not die [but] is only injured, [the setter of the trap] shall be made to pay 50 rupees as general damages for pain and suffering and be fined 50 rupees.

§ 17 If, as a countermeasure to a tiger, bear, boar or the like, rather than killing a human, having only eaten standing or harvested crops or [killed] a four-footed farm animal, somebody sets a trap—a solā or the like—along a path, at a public water source or in a bāri, kareso or the like without informing [persons in advance] at the village, and also without guarding [the approach to the site] at night himself, and a four-footed farm animal falls into the trap and dies, [the offender] shall be compelled to pay that animal's owner an amount settled upon by pañca and shall be fined an amount equal [to that paid to the owner].

§ 18 The ten percent [fine] on the whole is not levied on the amount paid for the deceased's funerary rites or as general damages for the pain and suffering. [An amount based on either of them] shall not be taken.

[3] Being held captive and having food and water withheld

§ 1 If somebody holds captive somebody else without providing him food and water [on the grounds that he] ought to be held captive because of a dispute involving gold or silver, metal vessels, cash or commodities, precious stones or jewellery, land, male or female slaves, caste, real property, fields, water channels, water [sources], [right of] way, adultery, trade or a married woman (svāsnī i.e., nuptial issues), and if the captive dies, [the offender]—if he belongs to a caste whose members may be shaved [but not executed]—shall be branded and his share of property shall be confiscated in accordance with the Ain. If [such an act] was carried out by a woman, she shall be branded but her property shall not be confiscated. If the person who killed [the victim]—having [first] taken him captive and then withheld food and water—belongs to a caste whose members may be executed, [he] shall be executed—taking life for life. A fine of 5 rupees shall be imposed if [he] held [the victim] captive and withheld food and water only for 1 night and 1 day; 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 holds someone captive [but the victim] does not die, she shall be fined half the [above] amounts. If the fine is not paid, [the offender] shall be imprisoned in accordance with the Ain.

§ 2 If somebody holds captive somebody else [on the grounds that he] ought to be held captive because of a dispute involving gold or silver, metal vessels, cash or commodities, precious stones or jewellery, land, four-footed farm animals, male or female slaves, caste, real property, fields, water channels, water [sources], [right of] way, a married woman (svāsnī i.e., nuptial issues), trade, adultery or khatachita\textsuperscript{59}, and if, having provided him his own or the latter’s food and water, the captive dies, he who held captive shall be assigned no blame. If he who holds captive provides food and water to the captive but the latter does not consume it, but dies [because of himself] in a fearful state of mind, he who held captive shall be assigned no blame.

§ 3 If somebody holds captive somebody else without providing him food and water [on the grounds that he] ought to be held captive because of a dispute involving gold or silver, metal vessels, cash or commodities, jewellery, land, four-footed farm animals, slaves, adultery, caste, real property, water channels, [right of] way, a married woman (svāsnī i.e., nuptial issues), khatachita or trade, and the captive dies, he who held captive—if he belongs to a caste whose members are subject to being branded—shall be branded, [whilst] if he belongs to a caste whose members may be executed, he shall be executed. [Any] offspring of those condemned by branding or execution shall not [be permitted to] receive goods or money, through personal [trade] transactions or lending and borrowing, from the offspring of him who died when [the other] held him captive. If [a tenant debtor] is held captive and, though denied food and water, [still] does not die, he who held captive shall be allowed to take [his contractual] money from the debtor—[only] after he has paid the fine [mentioned in § 1] corresponding to the number of days starting from the [first] day of captivity.

§ 4 If a detainee [or] litigant who has been brought to an \textit{addā}, gauḍā, adālata, \textit{ṭhānā}, [or] sadara \textit{daphadara}; the Kumārī Coka; an \textit{amāla}; or a rakamdāra, \textit{ṭheka[dāra]} [or] ijārādāra kacahārī does not

\textsuperscript{59} The term \textit{khatachita} refers to the \textit{painciple\textsuperscript{a} khata}, the fine for heinous crimes (see e.g., M. R. Pant 2002: 77 and 86; for different definitions of \textit{painciple\textsuperscript{a} khata} found in the literature, see ibid. 34). M. Gaborieau (1977: 253) n. 59 and Bouillier (1991: 11) define the term as a fine for illicit sexual relations. In present context, the term can be taken in its broader meaning.
receive food to eat for 1 day and 1 night, no blame shall be assigned. If [he] has been held without both food and water for 1 day and 1 night, officials shall be held accountable in accordance with the section of the Ain ‘On Detainees.’

§ 5 If a detainee or litigant enjoys both sufficient supplies of food from his own home and frequent visits from his close relations [or] servant[s] but proclaims that he has not received food and drink, his complaint shall not be heard. No blame shall be assigned regarding the matter to those who detained him.

[4] The law pertaining to cases when a weapon is unsheathed or when a weapon causes injury

§ 1 If, during a dispute over an incidental matter (aru, i.e., not a duel or premeditated attack), [a person] who has no intention of taking the life [of the other person] puts his hand to a khukuri, one-edged sword (tarabāra), double-edged curved sword (khūḍā), dagger (kaṭārī), spear (bhālā), unloaded gun or bow without doing any unsheathing and says, “I’ll kill you,” such a person shall be fined 2½ rupees.

§ 2 If, during a dispute over an incidental matter, [a person] who has no intention of taking the life [of the other person] unsheathes a khu-kurī, tarabāra, khūḍā, kaṭārī or bhālā or targets [him] with a loaded gun or [with] a bow and arrow, and says, “I’ll kill you,” such a person shall be fined 20 rupees.

§ 3 If [one of two persons] who harbour no [mutual] malice and [are engaging in no] dispute is bearing a weapon such as a khukuri or tarabāra, and the tip comes out of its sheath while they are walking along a path and [the weapon] pierces, cuts or scratches [the other person], and if the one who is injured launches an official complaint, the one who bore the weapon negligently shall be fined 4 ānās. If the former launches no complaint, no blame shall be assigned.

§ 4 If a person, while frolicking, playing or walking [with another person], lays hand on a lethal weapon or the like that he was unaware the other was bearing, and is cut or scratched by that weapon, this shall be taken as a mishap. The person bearing that weapon shall be assigned no blame.

§ 5 If, during a dispute [between two persons neither of] whom intentionally strikes or stabs [the other] with a weapon, [one of them] grabs hold of the [other’s] weapon and [one of the parties] is injured with loss of blood, neither party shall be fined if the injured party is he who grabbed hold of [the weapon]. If he who bore the weapon is
the injured party, he who grabbed hold of the other’s weapon, having earlier [initiated the dispute] by striking [the other] with his hand, shall be fined $\frac{1}{2} \text{ānā}$; if [the former] does not launch [an official] complaint, [the latter] shall be assigned no blame.

§ 6 If a person who has no intention of taking the life [of another]—who is not waiting along a path or byway to kill [another], who bears [him] no prior malice and who does not strike [him] from an ambush—strikes and kills [that person] spontaneously with a weapon or the like during the daytime and in public, having been unable to control his anger while [the two parties] are engaged in a verbal or physical tussle over a dispute relating to real property, [a dispute] during a festival or procession, a dispute relating to [business] transactions, a dispute relating to gold or silver, cash or commodities, metal vessels, jewels, garments, four-footed farm animals, two-footed farm animals or the like, or a dispute concerning communal field work ($\text{melāpāta}$), water channels, forests, grassland or the like, or concerning nuptial matters ($\text{svāsnī}$), then in the case where the one who killed by wielding a weapon is a man belonging to a caste whose members may not be executed he shall be branded and his share of property shall be confiscated in accordance with the Ain, and in the case when it is a woman, she shall be similarly branded, but her property shall not be confiscated. In the case where it is a man belonging to a caste whose members may be executed, he shall be executed—taking life for life.

§ 7 If a person who has no intention of taking the life of [another]—who is not waiting along a path or byway to kill [another]; who bears [him] no prior malice; and who does not strike [him] from an ambush—strikes [that person] spontaneously with a weapon, pole, stone or the like during the daytime and in public, having been unable to control his anger while [the two parties] are engaged in a verbal or physical tussle over a dispute relating to real property, a dispute relating to gold or silver, cash or commodities, metal vessels, jewels, garments, four-footed farm animals, two-footed farm animals or the like, or a dispute concerning communal field work, water channels, forests, grassland or the like, or concerning nuptial matters ($\text{svāsnī}$), and the victim does not die but becomes incapacitated due to permanent bodily injury, then in the case where the one who caused permanent bodily injury is a man he shall be imprisoned for 24 years, and in the case where it is a woman, she shall be imprisoned for 12 years. No matter how much money may be offered [to waive imprisonment], it shall not be accepted. The victim whose body has been permanently injured
shall be assigned no blame even if he struck [the other], drew blood or assaulted [him] verbally.

§ 8 If a person who has no intention of taking the life of [another]—who is not waiting along a path or byway to kill [another]; who bears [him] no prior malice; and who does not strike [him] from an ambush—strikes [that person] spontaneously with a weapon or the like in public, having been unable to control his anger while [the two parties] are engaged in a verbal or physical tussle over a dispute relating to real property, a dispute relating to gold or silver, cash or commodities, metal vessels, jewels, garments, four-footed farm animals, two-footed farm animals or the like, or a dispute concerning communal field work, water channels, forests, grassland or the like, or concerning nuptial matters, and the victim does not die and is not permanently injured but merely wounded, he who wielded the weapon [shall be imprisoned based on the severity of] the wound, measured according to length [in the case of striking and to depth in the case of stabbing]: If the wound is 1 fingerbreadth [long or deep], [the perpetrator]—in the case of a man—shall be imprisoned for 1 year, [and] in that of a woman, for 6 months; if [it] is two fingerbreadths [long or deep], [the perpetrator]—in the case of a man—shall be imprisoned for 1½ years, [and] that of a woman, for 9 months; if [it] is 3 fingerbreadths [long or deep], [the perpetrator]—in the case of a man—shall be imprisoned for 2 years, [and] in that of a woman, for 1 year. The prison term shall be increased by 6 months for a male perpetrator and by 3 months for a female perpetrator for every additional fingerbreadth [in the length or depth of] the wound, until the prison term reaches 12 years. Even if the prison term becomes more than 12 years when calculating in this manner, the perpetrator shall not be imprisoned more than 12 years. No matter how much money may be offered [to waive imprisonment], it shall not be accepted. He who has had his body wounded shall be assigned no blame even if he struck [the other], drew blood or assaulted [him] verbally.

[5] The law pertaining to punishment when a single person intentionally kills a human

§ 9 If, out of greed for property or out of any other form of envy, [somebody] with the intention to do so kills a human by striking or stabbing the victim with a hand-held weapon or the like, the murderer—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [the murderer] is a woman, she shall be branded but
no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 10 If, out of greed for property or out of any other form of envy, [somebody] with the intention to do so kills a human by shooting him with a rifle, bow and arrow or other such discharging weapon, the murderer—if he belongs to a caste group whose members may not be executed—shall be branded, in accordance with the Ain, and his share of property shall be confiscated; if [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 11 If, out of greed for property or out of any other form of envy, [somebody] with the intention to do so kills a human by shoving or [otherwise] causing him to fall down a steep slope [or] into an abyss, [or else to fall] from a tree, window, balcony, roof, wall or the like, the murderer—if he belongs to a caste group whose members may not be executed—shall be branded, in accordance with the Ain, and his share of property shall be confiscated; if [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 12 If, out of greed for property or out of any other form of envy, [somebody] with the intention to do so kills a human by striking or stabbing him with a pole, stone, piece of wood, a brick, turf [or] metal, a roped stone used for hunting (ghuyātro)⁶⁰, a wooden stick for dislodging fruit (jhaṭāro) or the like, or by crushing him under a rock or log, the murderer—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 13 If, out of greed for property or out of any other form of envy, [somebody] with the intention to do so kills a human by strangulating, hanging or suffocating him, the murderer—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated;

⁶⁰ Var. ghuyētro.
if [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 14 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill a person forces [him] into a deep pit and fills it with bricks, stones, earth or the like, and that person dies, the one who with the intention to kill forced [the other] into the deep pit and filled [it]—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed, he shall be executed—taking life for life.

§ 15 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill causes [a person] to fall into a deep river (gangā)61, minor river, ford, well, pond or the like by shoving him in and letting him be swept away, and that person dies through drowning or being swept away, or else is first swept away and thereafter comes ashore on his own or is pulled ashore, and dies within three days, he who with the intention to kill caused [him] to fall—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated. If [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 16 If, out of greed for property or out of any other form of envy, [somebody] with the intention to do so kills a human by shoving him towards a fire, making him agent fall in and letting [him] burn, [the murderer]—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

61 Gangā in its primary meaning refers to the river of the same name, personified as the eldest daughter of Himavat and Mena, the wife of Sāntanu and the mother of Bhīṣma. Here the word is used to denote any major river (also see T, s.v. gangā).
§17 If, out of greed for property or out of any other form of envy, [somebody] with the intention to do so kills a human by letting [him] consume poison (jahara viṣa)\(^62\), [the murderer]—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

[6] The law pertaining to cases of conspiracy to murder

§18 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to do so jointly kill a human by striking or stabbing him with a weapon or the like, as many persons from whose wounding [the victim] has died—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§19 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to do so jointly kill a human by shooting him with a rifle, bow and arrow or the like, as many persons from whose wounding [the victim] has died—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§20 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to do so jointly kills a human by shoving or [otherwise] causing him to fall down a steep slope into an abyss, [or else to fall] from a tree, window, balcony, roof, wall or the like, as many persons as caused him to fall by laying hands [on him]—if they are men belonging to a caste group whose members

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\(^{62}\) The words jahara and viṣa are synonymous. Jahara is a loan word derived from the Persian zahr.
may not be executed—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§ 21 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to do so jointly kill a human by striking or stabbing him with a rod, stone, piece of wood, a brick, turf [or] metal, a roped stone used for hunting (ghugyātro), a wooden baton for dislodging fruit (jhaṭāro) or the like, or by crushing him under a rock or log, the murderer—if he belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§ 22 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly cause [a person] to fall into a deep river, minor river, well [or] pond, [or]—at a place near a [beam] bridge [or] suspension bridge—onto a bush, ford or the like by shoving him in and letting him be swept away, and that person dies through drowning or being swept away, or else is first swept away and thereafter comes ashore on his own or is pulled ashore, and dies within 3 days, as many persons as have, with the intention to do so, killed [the victim] by catching, shoving and causing him to fall—if they are men belonging to a caste group whose members may not be executed—shall be branded, in accordance with the Ain, and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§ 23 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to do so kills a human by strangling or by hanging or suffocating [him], as many persons as [killed the victim] by laying hands [on him]—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to
a caste group whose members may be executed, they shall be executed—taking life for life.

§ 24 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill a person jointly force [him] into a deep pit and fill it with earth, bricks, turf or the like, and that person dies, as many persons as seized and forced [the victim] into a deep pit and filled [it]—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§ 25 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to do so kills a human by shoving [him] towards a fire, making [him] fall in and letting [him] burn [to death], as many persons as seized [the victim] during the time of making him fall into the fire and during the time of letting him burn—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§ 26 If, out of greed for property or out of any other form of envy, [someone acting] as instigator, gives the word to assassinate such and such a person, and another person, [acting] on his order, goes and kills the man, the instigator who has given the word to kill, irrespective of whether he went along to the scene of the murder or not—if it is a man belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [the instigator] is a woman, she shall be branded but no property shall be confiscated. If [the instigator] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 27 If, out of greed for property or out of any other form of envy, [a multiple number of persons] are involved in a murder plot, and murder the person after seizing and tying [him] up, as many persons as seized and tied [the victim] up—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance
with the *Ain*, and their share of property shall be confiscated; if [the murderers] are women, they shall be branded but no property shall be confiscated. If [the murderers] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§28 If, out of greed for property or out of any other form of envy, [a multiple number of persons] participate in a murder plot [to the extent of] providing weapons such as rifles, bows and arrows or the like, and even go to the site of the killing, [but] do not discharge a weapon and do not [act] as the main [plotter] by giving the word to kill, then as many people as brought about the killing of the victim by providing weapons such as rifles, bows and arrows and the like—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance with the *Ain*, and their share of property shall be confiscated; if [the accessories to murder] are women, they shall be branded but no property shall be confiscated. If [the accessories to murder] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§29 If [someone] who wants to kill [a person] says to someone else: “I’m going to kill [such and such a person]. Give me a weapon—a rifle, bow and arrow [or the like],” and thereupon the latter provides a weapon to the person who has said that he would kill such and such a person, then since he can be judged to have let the victim be killed by providing a weapon, although he does not go to the murder site himself—if it is a man belonging to a caste group whose members may not be executed—he shall be branded in accordance with the *Ain*, and his share of property shall be confiscated; if [the accessory to the murderer] is a woman, she shall be branded but no property shall be confiscated. If [the accessory to the murderer] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§30 If, out of greed for property or out of any other form of envy, [someone] participates in a plot to murder, and is involved in the killing to the extent of [ensuring that] doors [and] windows inside a house are barred or that ladders have been removed during the murder [in order to prevent] the [victim] from escaping, then as many people as participated in the murder plot, and were involved in the killing to the extent of [ensuring that] doors [and] windows inside a house are barred or that ladders were removed during the murder—if they are men belonging to a caste group whose members may not be executed—shall be
branded in accordance with the Ain, and their share of property shall be confiscated; if [such accomplices] are women, they shall be imprisoned for 12 years. Even if double the fine required to waive imprisonment is offered, it shall not be accepted.

§31 If, out of greed for property or out of any other form of envy, [someone] enters into a murder plot, and is involved in the killing—brings about the killing by blocking a path or byway outside rather than [being present] inside the house—is not, [that is,] someone who laid hands on the [victim's] body—then as many persons as were involved in the killing, and brought about the killing by blocking paths or byways shall, if they are men, be branded in accordance with the Ain, and their share of property shall be confiscated. If [they] are women, they shall be imprisoned for 12 years. Even if [such accomplices] pay twice the fine required to waive imprisonment, it shall not be accepted.

§32 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot, and are involved in the killing to the extent of patrolling the [murder site] to prevent other people from witnessing [the killing,] but who neither give, as the chief [conspirator], the order to kill nor provide weapons, then as many persons as are involved in the killing to the extent of patrolling the site—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated. If [they] are women, they shall be imprisoned for 6 years but no property shall be confiscated. Even if [such accomplices] pay twice the fine required to waive imprisonment, it shall not be accepted.

§33 If, out of greed for property or out of any other form of envy, [someone] enters into a murder plot, goes to [the site] together [with the killer(s)] but does not strike [the victim] with his hand, seize [him] or tie [him] up, nor does he patrol [the murder site] or give the order to kill but only observes [the murder], then as many persons as [observed the murder]—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated. If [they] are women, they shall be imprisoned for 6 years but no property shall be confiscated. Even if [such accomplices] pay twice the fine required to waive imprisonment, it shall not be accepted.

§34 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot but do not go along to the murder site, provide any weapons [or] give the order to kill, but merely have a personal interest in [seeing the victim's] life ended, then as many persons as entered into the murder plot—if they are men shall be imprisoned
for 8 years in accordance with the \textit{Ain}, and their share of property shall be confiscated. If [they] are women, they shall be imprisoned for 4 years but no property shall be confiscated. Even if [such accomplices] pay twice the fine required to waive imprisonment, it shall not be accepted.

§35 If, out of greed for property or out of any other form of envy, a multiple number of persons, having plotted to do so, kill a human by having [him] consume poison, then they who killed a human by having him consume that poison—if they are men belonging to a caste group whose members may not be executed—shall be branded in accordance with the \textit{Ain}, and their share of property shall be confiscated; if [they] are women, they shall be branded but no property shall be confiscated. If [they] are men belonging to a caste group whose members may be executed, they shall be executed—taking life for life.

§36 If, out of greed for property or out of any other form of envy, [someone] provides poison [to someone else], knowing that [it is meant] to kill a specified [third] person, and the [second] one has [the victim] consume [it] and [so] kills that person by having [him] consume that poison, then the one who provided poison, knowing that [it was meant] to kill [the victim]—if it is a man belonging to a caste group whose members may not be executed—shall be branded in accordance with the \textit{Ain}, and his share of property shall be confiscated; if it is a woman, she shall be branded but no property shall be confiscated. If [he] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§37 If, out of greed for property or out of any other form of envy, [someone] acting as chief [conspirator] instructs [another person] to kill a specified [third] person by having [him] consume poison, and in compliance with his order [the other] kills [the victim] by having [him] consume the poison, then the one who as chief [conspirator] instructs [the other] to kill the victim by having him consume poison—if it is a man belonging to a caste group whose members may not be executed—shall be branded in accordance with the \textit{Ain}, [and] his share of property shall be confiscated; if it is a woman, she shall be branded but no property shall be confiscated. If [he] is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§38 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot [to be carried out] by administering poison go to the murder site together [with the actual murderer] but
do not [themselves] administer the poison, nor do they give the order to kill or provide the poison [to the murderer], and the person ends up being killed through the poison being administered, then as many such plotters as participated in the murder plot and even went to the murder site together [with the murderer]—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 39 If, out of greed for property or out of any other form of envy, [persons] participate only [as accessories] in a murder plot [to be carried out] by letting [a person] consume poison, neither going [themselves] to the murder site, administering the poison, giving, as chief plotter, the order to kill, nor providing the poison [to be administered], and it turns out that the person has been killed through the poison being administered, as many plotters as entered into the murder plot only [as accessories in that] they did not go to the site—if they are men—shall, in accordance with the Ain, be imprisoned for 8 years and their share of property shall be confiscated; if they are women, they shall be imprisoned for 4 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 40 If, out of greed for property or out of any other form of envy, [persons] with the intention to do so kill a human by having him bitten by a snake, [the perpetrators]—if they are men belonging to caste groups whose members may not be executed—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be branded but no property shall be confiscated. If they are men belonging to caste groups whose members may be executed, they shall be executed—taking life for life.

§ 41 If, out of greed for property or out of any other form of envy, [persons] with the intention to do so kill a human by having him bitten by a dog, [the perpetrators]—if they are men belonging to caste groups whose members may not be executed—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be branded but no property shall be confiscated. If they are men belonging to caste groups whose members may be executed, they shall be executed—taking life for life.

§ 42 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill chase [someone] with a hand-held weapon and [that person] dies upon falling down a steep slope or from
[the edge of] a deep drop while running away in order to save his life, then given the fact that the victim died upon falling down a steep slope or from [the edge of] a deep drop while running away out of fear, those who chased [him] with weapons [in hand] with the intention to kill [but] with no one being able to strike [him] with his weapon—if they are men—shall be branded in accordance with the *Ain*, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 43 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill chase [someone] with a hand-held weapon and [that person] jumps into a river while running away in order to save his life and dies through drowning in the river or through being swept away by [it], then—given the fact that the victim died upon jumping into a river while running away out of fear—those who chased [him] with weapons [in hand] with the intention to kill [but] with no one being able to strike [him] with his weapon—if they are men—shall be branded in accordance with the *Ain*, and their share of property shall be confiscated; if [the perpetrators] are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

[7] The law pertaining to punishment for physical injury caused by a single person [acting on] an intention to kill

§ 44 If, out of greed for property or out of any other form of envy, [a person] with the intention to kill strikes or stabs [a human] with a weapon or the like, and that human does not die but becomes incapacitated due to permanent bodily injury, then the striker—if it is a man—shall be branded in accordance with the *Ain*, and his share of property shall be confiscated; if [the striker] is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 45 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill [a human] shoots him with a rifle, bow and arrow or other such [discharging weapon], and that human does not die but becomes permanently incapacitated, then the shooter—if he is a man—shall be branded in accordance with the *Ain*, and his share of property shall be confiscated; if [the shooter] is a woman, she shall be imprisoned for 12 years but no property shall be confiscated.
No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 46 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill [a human] shoves or [otherwise] causes him to fall down a steep slope [or] from the edge of a deep drop, [or else to fall] from a tree, window, balcony, roof, wall [or the like], and that person does not die but becomes permanently incapacitated, then [the perpetrator]—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [the perpetrator] is a woman, she shall be imprisoned for 12 years but no property shall be confiscated; no matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 47 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill strikes or stabs [a human] with a stick, stone, a piece of wood, brick, turf, a roped stone used for hunting, a wooden stick for dislodging fruit or the like, or crushes him under a rock or log, and that human does not die but becomes permanently incapacitated, then [he] who struck [the victim] with the intention to kill—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [it] is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 48 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill shoves [a human] towards a fire, makes [him] fall in and lets [him] burn, and that person does not die but becomes incapacitated with permanent bodily injury, [he] who with the intention to kill forced [the victim] into the fire—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if [it] is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

[8] The law pertaining to punishment for conspiracy to kill resulting in permanent incapacitation
§ 49 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly strike or stab [a human] with a hand-held weapon or the like, and that person does not die but becomes incapacitated with permanent bodily injury, then as many persons from whose wounding [the victim's] body has
been permanently injured—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 50 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly shoot [a human] with a rifle, bow and arrow or the like, and that human does not die but becomes incapacitated with permanent bodily injury, then as many persons from whose wounding [the victim's] body has been permanently injured—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 51 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly shove [a human] or [otherwise] cause him to fall down a steep slope or from [the edge of] a deep drop, [or else to fall] from a tree, window, balcony, roof, wall or the like, and that person does not die but becomes incapacitated with permanent bodily injury, then as many persons as caused him to fall by laying hands [on him]—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 52 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly strike [a human] with a rod, stone [or] brick, turf, wood [or] metal, a wooden stick for dislodging fruit or the like, or a roped stone [used for hunting] or the like, or crush him under a rock or log, and that person does not die but becomes incapacitated with permanent bodily injury, then as many persons from whose wounding [the victim's] body has been permanently injured—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 53 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill [a human] shove
[him] towards a fire, make [him] fall in and let [him] burn, and that human does not die, having received [outside] help or having escaped on his own, but becomes incapacitated with permanent bodily injury, then as many persons as laid hands on [the victim] when he was made to fall into the fire and was allowed to burn—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 54 If, out of greed for property or out of any other form of envy, [someone] as a chief plotter gives an order [to someone else] saying: “Kill such and such a person,” and [the latter], following the order, goes and incapacitates [the victim], injuring his body permanently but, as it turns out, not having killed him, then the chief plotter, having given the order to kill, irrespective of whether he went to the site of the [planned] killing jointly [with the perpetrator] or not—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 55 If, out of greed for property or out of any other form of envy, [a multiple number of persons] participate in a murder plot and seize and tie [the victim] up, [but] in the end [the latter] does not die but is incapacitated with permanent bodily injury, then as many persons as seized and tied [the victim] up in order to kill him—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 56 If, out of greed for property or out of any other form of envy, [a multiple number of persons] participate in a murder plot [to the extent of] providing [either] hand-held weapons [or] rifles, bows and arrows or the like, and even go to the site of the killing, [but] do not use a weapon and do not [act] either as the main [plotter] by giving the word to kill, and [the victim] in the end does not die but is incapacitated with permanent bodily injury, then as many people as have let the victim be permanently injured by providing [either] hand-held weapons [or] rifles, bows and arrows or the like—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years
but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 57 If [someone] who wants to kill [a person] says to someone else: “I’m going to kill such and such a person. Give me a weapon, rifle, bow and arrow or the like,” and thereupon the latter provides these [sorts of] weapons to the person who has said that he will kill such and such a person, but does not go himself to the [planned] murder site, and in the end [the victim] does not die but is incapacitated with permanent bodily injury, then since it can be ascertained that he let the victim be permanently injured by providing a weapon he shall—if it is a man—be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment is offered, it shall not be accepted.

§ 58 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot and [ensure that] doors [and] windows inside a house are barred or that ladders have been removed during the murder [attempt] lest the victim escape, and in the end [the victim] does not die but is incapacitated with permanent bodily injury, then as many people as participated in the murder plot and [ensured that] doors [and] windows inside the house were barred or that ladders were removed—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive, it shall not be accepted.

§ 59 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot and block a path or byway outside rather than [being present] inside the house but do not lay hands on the [victim’s] person, and in the end [the victim] does not die but is incapacitated with permanent bodily injury, then as many persons as were involved in the murder plot and blocked paths or byways—if they are men—shall be imprisoned for 9 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 4½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 60 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot and patrol the [murder site] to prevent other people from witnessing [the killing], and in the end [the
victim] does not die but is incapacitated with permanent bodily injury, then as many persons as were involved in the murder plot and patrolled the site—if they are men—shall be imprisoned for 9 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 4½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 61 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot, go to [the site] together [with their fellow plotter(s)] but do not strike [the victim] with their hand, do not surround [him], do not patrol [the site] or, as a chief plotter, give the order to kill but only observe [the proceedings], and in the end [the victim] does not die but is incapacitated with permanent bodily injury, then as many persons as participated in the plot, went to the site and observed [the act]—if they are men—shall be imprisoned for 9 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 4½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment [they] offer, it shall not be accepted.

§ 62 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot but do not go along to the murder site, provide any weapons [or], as chief plotters, give the order to kill, and in the end [the victim] does not die but is incapacitated with permanent bodily injury, then as many persons as entered into the murder plot—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment is offered, it shall not be accepted.

§ 63 If, out of greed for property or out of any other form of envy, [a person] with the intention to kill lets a snake bite [someone], but that person does not die but is incapacitated with permanent bodily injury, then he who with the intention to kill let the snake bite [the victim]—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 64 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill [someone] by causing him to be bitten by a dog, but that person does not die but is incapacitated with
permanent bodily injury, then those who with the intention to kill cause [the victim] to be bitten by a dog—if they are men—shall be branded in accordance with the *Ain*, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 65 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill chase [someone] with a hand weapon and [that person] does not die but becomes incapacitated with permanent bodily injury upon falling down a steep slope or from [the edge of] a deep drop while running away in order to save his life, then given the fact that the victim became incapacitated with permanent bodily injury upon falling down a steep slope or from [the edge of] a deep drop while running away in order to save his life, those who chased [him] with hand weapons with the intention to kill [but] were unable to strike [him] with their weapons—if they are men—shall be imprisoned for 12 years in accordance with the *Ain*, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 66 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill chase [someone] with a hand weapon and [that person] jumps into a river while running away in order to save his life and becomes incapacitated with permanent bodily injury, then—given the fact that the victim became permanently incapacitated upon jumping into a river while running away in order to save his life—those who chased [him] with hand weapons with the intention to kill [but] were unable to strike [him] with their weapons—if they are men—shall be imprisoned for 12 years in accordance with the *Ain*, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

[9] The law pertaining to punishment in cases where a single person, [in attacking someone else] with the intention to kill, causes no bodily injury and the person survives by chance or through help received [from others]

§ 67 If, out of greed for property or out of any other form of envy, [someone] with the intention to kill [tries to] strangle, garrotte, hang or
suffocate [someone else] but that person does not die, whether by chance or through help received [from others], then the person who acted in [any of] these ways with the intention to kill—if it is a man—shall be branded in accordance with the *Ain*, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 68 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill forces [a person] into a deep pit and fills it with bricks, earth, stones or the like, but that person does not die, whether by chance or through help received [from others], then he who with the intention to kill forced [the other] into the deep pit and filled [it]—if it is a man—shall be branded in accordance with the *Ain*, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 69 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill causes [a person] to fall into a deep river, minor river, [water around] a ford, well, pond or the like by shoving him in and letting him be swept away, and that person thereafter emerges on his own or is pulled out and, having emptied [his lungs] of inhaled water, survives beyond three days, then he who with the intention to kill caused [him] to fall into water—if it is a man—shall be branded in accordance with the *Ain*, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 70 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill makes [a person] consume poison, and the one who consumes the poison does not die [but rather] survives, then he who with the intention to kill let [the victim] consume poison—if it is a man—shall be branded in accordance with the *Ain*, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.
The law pertaining to punishment in cases where a multiple number of persons who conspire to attack someone with the intention to kill do not cause injury and that person survives, whether by chance or through help received from others

§ 71 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly cause [someone] to fall into a deep river, minor river, [water around] a ford, well [or] pond—[or somewhere] near (i.e., beneath) a [beam] bridge, suspension bridge or the like—by shoving him in and letting him be swept away, and the person thereafter emerges on his own or is pulled out and, having emptied [his lungs] of inhaled water, survives beyond three days, then as many persons as have seized, shoved and caused him to fall with the intention to kill—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 72 If, out of greed for property or out of any other form of envy, a multiple number of persons strangle, garrotte, hang or suffocate [someone] with the intention to kill, and that person does not die but survives, then as many persons as have laid their hands [on the victim]—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 73 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly force [someone] into a deep pit and fill it with earth, bricks, turf or the like, and that person does not die but survives and comes out [from the deep pit] on his own or somebody else extracts him, then as many persons as, with the intention to kill, seized and forced [the victim] into a deep pit and filled [it]—if they are men—shall be branded, in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 74 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly make [someone] consume poison, and that person who consumes the poison does not die but survives, then those who with the intention to kill made
[the victim] consume poison—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 75 If, out of greed for property or out of any other form of envy, [someone] provides poison [to someone else], knowing that [it is meant] to kill a specified [third] person, and the [second person] has [the victim] consume [what] was provided by the first person, but the person who consumes [the poison] does not die but survives, then the one who provided the poison, knowing that [it was meant] to kill [the victim]—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 76 If, out of greed for property or out of any other form of envy, [someone] acting as instigator instructs [another person] to kill a specified [third] person by having [him] consume poison, and in compliance with his order [the other] has [the victim] consume poison, and that victim does not die but survives, then he who, as [instigator,] instructed [the other] to kill the victim by having him consume poison—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 77 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot [to be carried out] by administering poison and go to the murder site together but do not provide the poison [to be administered], nor do they give the order, as instigator, to kill—to administer the poison—and in the end [the victim] is given poison—consumes [it]—but does not die but rather survives, then those who participated in the murder plot and also went to the murder site together—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 78 If, out of greed for property or out of any other form of envy, [persons] participate only [as accessories] in a murder plot [to be carried
out] by having [a person] consume poison, neither going [themselves] to the murder site, administering the poison, giving, as instigator, the order to kill, nor providing the poison [to be administered], and in the end the poison is administered but the victim does not die but rather survives, then the plotters, those who entered into the murder plot only [as accessories] but did not go to the site—if they are men—shall be imprisoned for 4 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 2 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

[11] The law pertaining to punishment in cases where a single person with murderous intent injures another person

§ 79 If, out of greed for property or out of any other form of envy, [a person] with the intention to kill strikes or stabs [a human] with a weapon or the like, and that human does not die or even become permanently incapacitated but is merely wounded, then the striker, irrespective of whether the wound is major or minor—if it is a man— shall be imprisoned for 12 years, in accordance with the Ain, and his share of property shall be confiscated; if [the striker] is a woman, she shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 80 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill another person shoots him with a rifle, bow and arrow or other such [discharging weapon], and [that person] is wounded but [neither] dies [nor] is permanently incapacitated, then the striker, irrespective of whether the wound is major or minor—if it is a man—shall be imprisoned for 12 years, in accordance with the Ain, and his share of property shall be confiscated; if [the striker] is a woman, she shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 81 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill another person shoves or [otherwise] causes him to fall down a steep slope, [from the edge of] a deep drop, [or else to fall] from a tree, balcony, roof, wall or the like, and that human does not die or become permanently incapacitate but is merely wounded, [the perpetrator], irrespective of whether the wound is major or minor—if it is a man—shall be imprisoned for 12 years in
accordance with the Ain, and his share of property shall be confiscated; If [the perpetrator] is a woman, she shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 82 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill [a human] strikes or stabs him with a stick, stone, a piece of wood, brick, turf, a roped stone [used for hunting], a wooden stick for dislodging fruit or the like, or crushes him under a rock or log, and that person does not die or even become permanently incapacitated but is merely wounded, then [the perpetrator] who with the intention to kill strikes, irrespective of whether the wound is major or minor—if it is a man—shall be imprisoned for 12 years, in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 83 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill [a human] shoves [him] into a fire and lets [him] burn, and that person does not die or even become permanently incapacitated but survives only with a burn injury, then he who with the intention to kill shoved [the victim] into the fire and let him burn, irrespective of whether the wound is major or minor—if it is a man—shall be imprisoned for 12 years, in accordance with the Ain, and his share of property shall be confiscated; if [the perpetrator] is a woman, she shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

[12] The law pertaining to punishment in cases where a group of people with murderous intent [only] injure a person

§ 84 If, out of greed for property or out of any other form of envy, a multiple number of people with the intention to kill [a human] jointly strike or stab him with a weapon or the like, and that person does not die or even become permanently incapacitated but survives only with injury, then as many persons as have discharged the weapon with the intention to kill—if they are men—shall be imprisoned for 12 years, in accordance with the Ain, and their share of property shall be confiscated; if [the strikers] are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.
§ 85 If, out of greed for property or out of any other form of envy, a multiple number of people with the intention to kill [a human] jointly shoot him with a rifle, bow and arrow or the like, and that person does not die, does not become permanently incapacitated but survives only with injury, then as many persons as discharged [weapons] with the intention to kill—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if [the shooters] are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 86 If, out of greed for property or out of any other form of envy, a multiple number of people with the intention to kill jointly shove [a human] or [otherwise] cause him to fall down a steep slope, [from the edge of] a deep drop, [or else to fall] from a tree, window, balcony, roof, wall or the like, and that human does not die or even become permanently incapacitated but rather survives with only injury, then as many people caused him to fall by laying hands [on him] with the intention to kill—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if [the perpetrators] are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 87 If, out of greed for property or out of any other form of envy, a multiple number of people with the intention to kill jointly strike [a human] with a pole, stone, brick, turf, wood [or] metal, a stick for dislodging fruit or the like, or a roped stone [used for hunting] or the like, or else crush him under a rock or log, and that person does not die or even become permanently incapacitated but rather survives with only injury, then as many persons as struck or crushed [the victim] with the intention to kill—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if [the perpetrators] are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 88 If, out of greed for property or out of any other form of envy, a multiple number of people with the intention to kill [a human] shove [him] towards a fire, make [him] fall in and let [him] burn, and that person does not die or even become permanently incapacitated but survives with only injury through having received help or by escaping on
his own, then as many people as seized [the victim] during the time he was made to fall into the fire and allowed to suffer burning—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if [the perpetrators] are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 89 If, out of greed for property or out of any other form of envy, [someone] as a chief plotter gives an order [to someone else,] saying: “Kill such and such a person,” and [the latter,] following the order, goes and strikes [the victim,] [but] he (i.e., the victim) does not die or even become permanently incapacitated but survives only with injury through having received help or by escaping on his own with only injury, then the chief plotter, having given the order to kill, irrespective of whether he went to the site of the [planned] killing together [with the striker] or not—if it is a man—shall be imprisoned for 12 years, in accordance with the Ain, and his share of property shall be confiscated; if [the striker] is a woman, she shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment is offered, it shall not be accepted.

§ 90 If, out of greed for property or out of any other form of envy, [persons] are involved in a plot to murder [someone] and seize and tie [him] up, [but that person] does not die or even become permanently incapacitated but escapes either through having received help or by escaping on his own with only injury, then as many persons as seized and tied [the victim] up in order to kill him—if they are men—shall be branded in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 12 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment is offered, it shall not be accepted.

§ 91 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot, supply hand-held murder weapon(s) (a rifle, bow and arrow or the like) and even go to the murder site but neither wield a weapon nor give the order, as the chief [instigator], to kill, and in the end the victim [neither] dies nor becomes permanently incapacitated but is only wounded, then as many persons as provided the weapons such as rifles, bows and arrows or the like in order to kill [the victim]—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if [they] are women, they shall be imprisoned for 6 years but no
property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 92 If [someone] who wants to kill [a person] says to someone else: “I’m going to kill such and such a person. Give me a weapon—a rifle, bow and arrow or the like,” and thereupon the latter provides a weapon to the person who has said that he would kill such and such a person, but he does not go to the site of killing, nor does the victim even die or become permanently incapacitated, but survives with only injury, then since it can be determined that he let the victim be wounded by providing a weapon he shall—if it is a man—be imprisoned for 12 years in accordance with the Ain, and his share of property shall be confiscated; if [it] is a woman, she shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 93 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot, and [ensure that] doors [and] windows inside a house are barred and that ladders have been removed during the murder in order to prevent the victim from escaping, but in the end [the victim] does not die or even become permanently incapacitated but is only wounded, then as many people as ensured that doors [and] windows inside a house are barred and that ladders have been removed during the time of killing—if they are men—shall be imprisoned for 9 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 4½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 94 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot and, lest [the victim] escape or flee, block a path or byway outside rather than [being present] inside the house but do not touch [the victim’s] person, and in the end [the victim] does not die or even become permanently incapacitated but is only wounded, then as many persons as were involved in the murder plot by blocking paths or byways—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 95 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot and patrol the [murder site] to prevent other people from witnessing [the killing.] and in the end [the
victim does not die or even become permanently incapacitated but is only wounded, then as many persons as were involved in the plot [and act of killing] by patrolling the site—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 96 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot but do not go along to the murder site, lay [their] hands [on the victim], give the order to kill either as chief instigator but only observe [the act of murder], and in the end [the victim] does not die or become incapacitated but is only wounded, then as many persons as entered into the murder plot, went [to the site of killing] together with [the killer(s)] and observed [the act]—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 97 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot but do not go along to the murder site, provide any weapon [or] give the order to kill either as a chief instigator, and in the end [the victim] does not die or even become incapacitated but is only injured, then as many persons as entered into the murder plot—if they are men—shall be imprisoned for 4 years, in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 2 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment they offer, it shall not be accepted.

§ 98 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill put a snake [where it can bite the intended victim], and the snake bites him, but in the end [the victim] is only injured but does not die or even become permanently incapacitated, then those who with the intention to kill put the snake [where they did]—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 99 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill let a dog bite [another person,] but
that person does not die or become permanently incapacitated but survives with only injury, then those who with the intention to kill let the dog bite [the victim]—if they are men—shall be imprisoned for 12 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 100 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill chases [someone] with a hand-held weapon and [that person] does not die or become permanently incapacitated but is only wounded upon falling down a steep slope or from [the edge of] a deep drop while running away in order to save his life, then those who chased [him] with weapons with the intention to kill [but] were unable to strike [him] with their weapons—given the fact that the victim was wounded upon falling down a steep slope or from [the edge of] a deep drop while running away in order to save his life—shall, if they are men, be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 101 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill chase [someone] with a hand-held weapon and [that person] does not die or even become permanently incapacitated but is only wounded upon jumping into a river while running away in order to save his life, then those who chased [him] with weapons with the intention to kill [but] were unable to strike [him] with their weapons—given the fact that the victim was wounded upon jumping into a river while running away in order to save his life—shall, if they are men, be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

[13] The law pertaining to punishment in cases when a single person with murderous intent assaults someone but that person is not injured or else the assailant misses his target

§ 102 If, out of greed for property or out of any other form of envy, [a person] with the intention to kill strikes or stabs [another person] with a weapon such as a rifle or bow and arrow, and that person is hit but
is not [seriously] wounded, or the strike misses [the target], or else the victim is not struck because he runs away from or outwits [the other], then the person who struck or stabbed [the victim] with the intention to kill—if it is a man—shall be imprisoned for 6 years, in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 103 If, out of greed for property or out of any other form of envy, [a person] with the intention to kill strikes [another person] with a weapon such as a rifle, bow and arrow or other such [discharging weapon], and that person is hit [by the weapon] but is not wounded, or the strike misses [the target], or the victim is not struck because he runs away or sidesteps, the shooter who shot the victim with the intention to kill—if it is a man—shall, in accordance with the Ain, be imprisoned for 6 years and his share of property shall be confiscated. If it is a woman, she shall be imprisoned for 3 years but no property shall be confiscated; No matter how much money is offered to waive imprisonment, it shall not be accepted.63

§ 104 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill [a person] shoves or [otherwise] causes him to fall down a steep slope [or from the edge of] a deep drop, [or else to fall] from a tree, window, balcony, roof, wall [or the like], and that person does not die or even become permanently incapacitated or is wounded, neither but survives, then he who, with the intention to kill, shoved [the victim] or [otherwise] caused him to fall down—if it is a man—shall be imprisoned for 6 years in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 105 If, out of greed for property or out of any other form of envy, [somebody] with the intention to kill strikes or stabs [a person] with a pole, stone, a piece of wood, a brick, turf, a roped stone [used for hunting], a stick for dislodging fruit or the like, or crushes him under a rock or a log, [and] that person is hit but is not wounded, or the assault misses [the mark], or the victim is not struck because he runs away from or outwits [the other], then he who with the intention to kill struck

63 Sections 102 and 103 similar (see the footnote to Section 103 in the edition).
[the victim] or crushed him shall—if it is a man—be imprisoned for 6 years in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

[14] The law pertaining to punishment in cases when a group of people collectively plot with murderous intent to assault a person but [the victim] is not injured, or else the assailants miss their mark and the victim is not struck

§ 106 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly strike or stab [a human] with a hand-held or other weapon, and that person is struck but is not wounded, or else the assault misses [the mark], or the victim is not struck because he runs away from or outwits [the assailants], then as many persons, with the intention to kill, struck [him] with a weapon or the like—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 107 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly shoot [a human] with such weapons as rifles or bows and arrows, and that person is hit but is not [seriously] wounded, or else the assault misses [the mark], or the victim is not struck because he runs away from or outwits [the assailants], then as many persons, with the intention to kill, discharged a rifle, bow and arrow or the like—if they are men—shall, be imprisoned for 6 years in accordance with the Ain and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 108 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly shove [a human] or [otherwise] cause him to fall down a steep slope [or from the edge of] a deep drop, [or else to fall] from a tree, window, balcony, roof, wall or the like, and that person does not die or become incapacitated or even wounded, then as many people as seized [the victim] and caused him to fall—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be
confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 109 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill jointly strike at [a human] or stab at him with a rod, stone, [piece of] wood, a brick, turf [or] metal, a stick for dislodging fruit or the like, or with a roped stone [used for hunting] or the like, or else crush him under a rock or log, and that person is hit but is not wounded, or the assault misses [the mark], or the victim is not struck because he runs away or hides, then as many persons as struck at [the victim] with the intention to kill shall—if they are men—be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 110 If, out of greed for property or out of any other form of envy, a multiple number of persons with the intention to kill [a human] jointly shove [him] towards a fire, make [him] fall in and let [him] burn, and that person does not die, suffer burns but survives [either] by receiving [others’] help or escaping [from the site] on his own, then as many persons as seized [the victim], made him fall into the fire and let him burn—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 111 If, out of greed for property or out of any other form of envy, [persons] as chief plotters give an order [to someone else,] saying: “Kill such and such a person,” and [the latter,] following the order, goes and assaults [the victim,] who, while struck, is not wounded, or else the assault misses [the mark] or the victim saves his life [either] by receiving [others’] help or escaping [from the site] on his own, then the chief plotters who gave the order to kill, irrespective of whether they went to the site of killing together [with the killer] or not shall—if they are men—be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.
§ 112 If, out of greed for property or out of any other form of envy, [a multiple number of persons] are involved in a plot to murder [a human] and seize and tie [him] up, but in the end the victim is struck but is not wounded, or else the assault misses [the mark] or the victim saves his life [either] by receiving [others’] help or on his own by running away [from] or outwitting [the assailants], then as many persons as seized and tied [the victim] up in order to kill him shall—if they are men—be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 113 If, out of greed for property or out of any other form of envy, [a multiple number of persons] participate in a murder plot [to the extent of] providing weapons such as rifles or bows and arrows, and go to the site of the killing [but] do not discharge a weapon and do not [act] either as the main [plotter] by giving the word to kill, and in the end the rifles, bows and arrows or the like provided by [them] are discharged but the victim is not wounded, or [the weapons] are discharged with the intention to kill but miss [the mark], or else [the victim] runs away from or outwits [the assailants] and remains unscathed, then as many persons as have provided the weapon to kill him—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 114 If [someone] who wants to kill [a person] says to someone else: “I’m going to kill such and such a person. Give me a weapon such as a rifle, bow and arrow or the like,” and thereupon the latter provides a weapon to the person who has said that he would kill such and such a person, but [the provider] does not go to the site of the [attempted] killing, and in the end [the weapon] is discharged with the intention to kill but it misses [the mark] or else [the victim] runs away from or outwits [the assailants] and remains unscathed, then since it can be ascertained that [the provider] provided a weapon—a rifle, bow and arrow or the like—that would be used] to kill [the victim], he shall—if it is a man—be imprisoned for 6 years in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be imprisoned for 3 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.
§ 115 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot and [ensure that] doors [and] windows inside a house are barred or that ladders have been removed during the murder in order to prevent the victim from escaping, and in the end [the victim,] who survives [either] by receiving help or escaping [from the site] on his own, is not permanently incapacitated or wounded, then as many people who, with the intention to kill, have ensured that doors [and] windows inside the house are barred or that ladders have been removed—if they are men—shall be imprisoned for 6 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 2½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 116 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot and block the path to the main road or [other] paths outside rather than [being present] inside the house, do not lay hands on [the victim,] and in the end [the victim] does not die, does not become permanently incapacitated and is not wounded, or else is attacked but is not wounded, or [the assault] misses the mark, then as many persons as were involved in the murder plot by blocking the path to the main road or [other] paths—if they are men—shall be imprisoned for 4 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 2 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 117 If, out of greed for property or out of any other form of envy, [persons] participate in a murder plot and patrol the [murder site] to prevent other people from witnessing [the killing,] and in the end the assault lands but the victim is not [seriously] wounded, or else it misses the mark, or he saves his life [either] by receiving help [from others] or escaping from or outwitting [the assailants] on his own, then as many persons patrolled the murder site to prevent other people from witness­ing the killing—if they are men—shall, be imprisoned for 3 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 1½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 118 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot, go to [the site] together [with the killer(s)] but do not strike [the victim] with their hand, do not patrol
[the murder site] or give the order to kill as the chief plotter but only observe [the murder], and in the end the assault lands but [the victim] is not [seriously] wounded, or else it misses the mark, or the victim saves his life [either] by receiving help or running away from or outwitting [the assailants] on his own, then as many persons as participated in the plot, went to the site and observed the [attempted] killing—if they are men—shall be imprisoned for 3 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 1½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 119 If, out of greed for property or out of any other form of envy, [persons] enter into a murder plot but do not go along to the murder site, provide any weapons [or] give the order to kill as the chief plotters, and the assault lands but [the victim] is not [seriously] wounded, or else it misses the mark, or [the victim] saves his life by receiving help or by running away from or outwitting [the assailants], then as many persons as entered into the murder plot—if they are men—shall be imprisoned for 3 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 1½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 120 If, out of greed for property or out of any other form of envy, [persons] put a snake [in someone's environs] in order to kill him, but in the end the snake does not bite [the intended victim], then those who put the snake [in the victim's environs] with the intention to kill—if they are men—shall be imprisoned for 3 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 1½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 121 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill [another person] sick a dog on [him,] but the dog does not bite, or else [the victim] saves his life by escaping from or outwitting [the dog], then those who, with the intention to kill, sicked the dog on [the intended victim]—if they are men—shall be imprisoned for 3 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 1½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.
§122 If, out of greed for property or out of any other form of envy, [persons] with the intention to kill chase [someone] with hand-held weapons and [that person] jumps from a cliff or [the edge of] a deep drop or into a river, thus fleeing and saving himself, and in the end suffers no injury, then those who chased [him] with hand-held weapons with the intention to kill—if they are men—shall be imprisoned for 3 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 1½ years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§123 If [persons] with the intention to kill take up hand-held weapons—rifles, bows and arrows, stones or the like—and block passages, paths to main routes or [other] paths but are captured before being able to wield their weapons, then as many persons as, with the intention to kill, blocked the paths—if they are men—shall be imprisoned for 4 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 2 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§124 If [persons] make a plot to murder [someone] but this comes to light while they are plotting, then as many people as have been plotting to murder—if they are men—shall be imprisoned for 2 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 1 year but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§125 If [persons] with the intention to kill [someone] put poison in food or the like, and the matter is disclosed before the food is eaten, then those who put poison in the food with the intention to kill, those who gave the order to kill [the victim] by letting [him] consume poison and those who provided poison knowing that it was meant to kill [the victim]—if they are men—shall be imprisoned for 4 years in accordance with the Ain, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 2 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§126 If persons put poison in food or the like with the intention to kill someone but some other person eats that poisonous food and dies before [the targeted victim] consumes it, then those who put the poison in the food with the intention to kill—if they are men belonging to
a caste group whose members may not be executed—shall be branded in accordance with the *Ain*, and their share of property shall be confiscated; if they are women, they shall be branded but no property shall be confiscated. If they are men belonging to caste groups whose members may be executed, they shall be executed—taking life for life.

§ 127 If persons put poison in food or the like with the intention to kill someone, but before [the targeted victim] consumes it some other person eats that poisonous food and, having eaten it, does not die but survives, then those who put the poison in the food with the intention to kill—if they are men—shall be imprisoned for 12 years in accordance with the *Ain*, and their share of property shall be confiscated; if they are women, they shall be imprisoned for 6 years but no property shall be confiscated. No matter how much money is offered to waive imprisonment, it shall not be accepted.

§ 128 If someone puts poison in food outside a house to kill wild animals—a tiger, wild boar, deer, antelope, wild buffalo, rhinoceros, jackal or the like, or a bird or the like—having [first] informed [persons in advance] at the village, but a human, cow or ox, or the like inadvertently eats that poisonous food and dies, then it shall be taken as a mishap. The one who put poison in the food shall be assigned no blame, nor need he [undertake] expiation. If poison is put in the food without informing [persons in advance] at the village, and a human accidentally consumes it and dies, [the authorities] shall fine him 20 rupees. If a four-footed [domestic] animal happens to die [by eating that food], [the authorities] shall compel [the man who set the poison] to pay that animal's owner an amount settled upon by the village; however, [he] need not pay a fine.

§ 129 If someone asks for a hand-held weapon—a rifle [or the like]—from someone else, [and the former] takes it and kills a human, then he who provided the weapon to the killer—in cases where it is [later] determined that the provider of the weapon had no knowledge that it was being taken to kill someone—shall be assigned no blame, nor need he [undertake] expiation.

§ 130 If a person provides poison to someone who states that it is needed for medical purposes or the like, and the latter lets a person consume that poison, then the provider of the poison—in cases where it is determined that he provided the poison without knowing that it was meant to kill—shall be assigned no blame, nor need he [undertake] expiation, irrespective of whether the [victim] died or not.

§ 131 If a child below the age of 12, having not been directed [to do so] by anyone, feeds something poisonous to a member of his own
household or any other person but the person who consumes the poisonous substance does not die, then, given the fact that it is a child below the age of 12, no blame shall be assigned but a fine of 2½ rupees shall be exacted, and expiation shall be granted against 1 rupee taken as godāna [by the dharmādhikārin]. If it is determined that it had [the poisonous substance] consumed at somebody else’s direction but the victim did not die, then he who directed [it to do so] shall be punished in accordance with the Ain; the child who had the poisonous substance consumed shall be fined as specified before, be granted expiation and let off. No other blame shall be assigned.

§ 132 If a male or female who has crossed 12 years of age has, out of anger or vexation, something poisonous consumed by a member of their own household or by somebody who does not belong to their household, and he who consumes it does not die, then a [local] aḍḍā, adālata or amāla shall obtain a written confession from and imprison [the perpetrator] for 4 years irrespective of whether he who consumed the poison says, “Although such and such person had me eat something poisonous, I did not die, so I pardon him” or “I do not pardon him.” If [the perpetrator] offers money to waive imprisonment, it shall be accepted, and he shall be granted expiation by the dharmādhikārin against 5 rupees as godāna.

§ 133 If any man or woman of the four classes and thirty-six castes, including a Brahmin, wields a weapon and strikes a person with the intention to kill [but only] injures him, and the victim, in order to save his life, kills the attacker then and there by wielding a hand-held weapon [of his own] or other such thing, then he shall be assigned no blame in cases where there are eyewitnesses who saw the weapon [being wielded by the perpetrator] and who submit an affidavit stating that the person who died struck first with his weapon, injuring [the victim] and that therefore the victim killed that [attacker]. If a Brahmin, woman, a blood relation or someone of the same gotra is killed, the slayer shall be granted expiation and shall [then] be permitted to eat cooked rice and drink water [together with his fellow caste members]; in cases where persons [other than those] mentioned are killed, no expiation is needed and he shall remain within his caste.

§ 134 In cases where somebody, after killing another person, proclaims to a village aḍḍā, adālata or amāla, “When such and such a person with the intention to kill injured me with a weapon, I killed him, [thus] saving my life, and came here,” then if there was no eyewitness [who might have] helped him during the killing, he shall not be let off
§ 134 If it is determined during an investigation of the case by the adālata or [village] council that he killed [the other] in order to save [his] own life when [the latter] with murderous intent injured him with a weapon, he shall be assigned no blame and be let off. If it is determined that he unlawfully killed another person and [then] came proclaiming, “When [such and such a person] attacked me with the intention to kill, I killed him in order to save my own life,” he—if it is a man who belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be branded but no property shall be confiscated. If [the perpetrator] is a man who belongs to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 135 If someone kills a person [but] but does not inform [authorities] and [the killing] becomes known afterwards through someone else, and the slayer is taken into custody and brought in for interrogation, during which he says, “I killed [that person] when he struck me with the intention to kill,” and if—when he is unable to produce any eyewitnesses— it is determined that he killed [the victim] out of anger, then he—if it is a man who belongs to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be branded but no property shall be confiscated. If [the perpetrator] is a man who belongs to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 136 If somebody is engaged in the act of killing a person unlawfully and that person cries for help, but the village headman aged between 16 and 65 who does not go to his aid, [even though] aware [that a murder is taking place], shall be fined 100 rupees. Persons other than the village headman who do not go [to help the victim] upon hearing [his] cry for help shall each be fined 10 rupees. Those below the age of 16 and elderly persons above the age of 65, the sick and women shall be assigned no blame. If a multiple number of persons from the same household hear [the victim’s] cry for help and 1 or 2 go [in response] but the others do not go, the others from the same household who did not go shall be assigned no blame.

§ 137 If someone kills a person and flees past a border pillar or the borderline, no one shall enter into the foreign country and capture and kill [him]. If [anybody] does enter the foreign country and captures and
kills him, he shall be charged with a crime. In cases where [somebody] is unable to capture [such a person] who flees to a foreign country, he shall be assigned no blame. The Resident Sāheba shall be consulted if [the perpetrator] flees to Madhesa (i.e., British India), and the Chief Kājī if he flees to Bhoṭa (i.e., Tibet). Once he is brought [back] here [to our own country,] the murderer—if it is a man belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be branded but no property shall be confiscated. If it is a man belonging to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 138 If [a bailiff or soldier] is sent to take someone into custody by order of a government officer or by [order of] an aḍḍā, adālata, ṭhānā, amāla or kacahari, and he who is taken and being brought in is attacked by a third party on the way and dies, the slayer shall be punished in accordance with the law relating to homicide. The bailiff or soldier who was taking [the deceased] into custody shall be assigned no blame.

§ 139 If someone not sent by order of a government officer or an aḍḍā, adālata, ṭhānā, amāla or kacahari takes someone else into custody in connection with a legal dispute involving transactional matters, and a third-party attacks [the detainee] and kills him, the slayer shall be punished in accordance with the law relating to homicide. The creditor or talsiṅ who was taking [the other] into custody shall be assigned no blame for having done so regarding a legal dispute involving transactional matters or the like.

§ 140 If a murderer, thief, adulterer or [any other] criminal, or else a slave, a male or female servant or the like who has fled [their] master's house is caught and taken [into custody] by a bailiff or soldier sent by an adālata, ṭhānā, amāla or the like, or is caught and brought [in] by their master [himself], or by somebody else who bears witness against them, stating “This [person] committed such and such act,” and [the person], having been put in fetters or stocks or [restrained with] leather handcuffs or the like, or put in prison, [later] dies from having consumed poison, hanged [himself] or cut [his own] throat, then those who caught him and brought [him in], who imprisoned him or who restricted [his movements] shall be assigned no blame.

§ 141 If a thief, an adulterer or [any other] criminal, or else a slave, male or female servant or the like who has fled [their] master's house is caught and brought [in] by a bailiff or soldier sent by an adālata, ṭhānā, amāla or the like, or is caught and brought [in] by someone who
has been sent by their master to catch [them,] and [the person], having been tied up, fettered or put in stocks, or [restrained with] leather handcuffs or the like, dies [along the way] from having on his own jumped into a river, from a cliff, into swampland, out of a window, from a roof, down a well, off a [beam] bridge or suspension bridge, or else from a boat, and [then] while escaping from having been swept away or having collided with [something], then he who caught [the person] and was bringing him [in] shall be assigned no blame.

§ 142 If a person who is being taken into custody to be held in confinement due to a dispute regarding gold or silver, cash or commodities, vessels, jewels, real property, four-footed [domestic] animals, male or female slaves, adultery, caste-related issues, house and fields, water channels, public water sources, right of way, nuptial issues, trade and transactions or the like, and while being brought [to authorities] dies upon falling down a steep slope or colliding with [something] when at some point he jumps [free] and flees, or else his hand or leg is injured or broken, then he who was taking him into custody and was bringing [him in] shall be assigned no blame. If he who was taking [the other] into custody was to have received something back from the deceased, he shall take [what is owed him] from the offspring of the deceased or from whoever inherits his property if he died without offspring. If [he] comes to an adālata or amāla to lodge a complaint, [the authorities] shall see that he receives what is due to him.

§ 143 If someone who needs to be held captive [temporarily] (i.e., pending transfer to authorities) due to a dispute regarding gold or silver, vessels, cash or commodities, jewels, real property, four-footed [domestic] animals, male or female slaves, adultery, caste-related issues, house and fields, water channels, public water sources, nuptial issues, trade and transactions or the like is held by someone inside his own or the other's house—whether in a room on an upper floor [or] on the ground floor—and [the captive] dies from having jumped from a window, a balcony or the roof, or injures his hands or legs, or suffers injury to [other] parts of the body, or dies by cutting his throat, stabbing himself with a weapon or hanging himself, or else dies by consuming poison, then he who held him captive shall be assigned no blame.

[15] The law pertaining to punishment for the crime of striking someone with the intention to kill

§ 144 In cases involving the killing of a person or engaging in a plot to kill, [the perpetrators] shall be punished in accordance with this Ain
(i.e., the law on homicide). If [someone] has killed, permanently incapacitated or else [otherwise] injured a person, or engaged in a plot [leading to similar results], the perpetrators shall be punished in accordance with the written provisions of this Ain. If it is determined that [the perpetrators] did not kill, permanently incapacitate or else injure a person, or engage in a plot [leading to similar results] in such a manner as written in this Ain, but rather that they did so in a different manner, the matter shall be decided in accordance with Section 8 of [the Article] on Court Procedures.

§ 145 If someone with the intention to kill or during a dispute over some incidental matter injures or incapacitates a person by striking or stabbing [him] with a weapon or by other means, the wound [of the victim] shall be measured. If there is a need to determine whether [the victim] has become incapacitated, [one] shall have a barber—in case one is available, and if not, then a knowledgeable village notable—measure, in the case of striking, the length of the wound and, in the case of stabbing, its depth, and [the measurer] shall be made to determine whether [the victim] is permanently incapacitated or not. Once he has made a determination, a written statement shall be prepared regarding the extent of injury, and the perpetrator shall be dealt with in accordance with the Ain on the basis of these written details.

§ 146 If someone beats [a person] with the intention to kill, [one] shall have a barber—in the case one is available, and if not, then a knowledgeable village notable—examine the [victim] to determine whether his hands, feet, fingers and toes, or bones have been broken or not, whether he has become permanently incapacitated or not, or whether or not he has suffered merely a minor injury. After [the measurer] has made a determination, a written statement shall be prepared regarding the extent of injury, and the perpetrator shall be dealt with in accordance with the Ain on the basis of these written details.

[16] The law pertaining to execution, branding and other punishment for the crime of homicide

§ 147 In cases where an Upādhyāya Brahmin or any other person belonging to a Brahmin caste group kills someone or commits a crime resulting in the loss of life, he shall not be executed, given the demerit of killing a Brahmin. [Instead, authorities] shall, in accordance with the Ain, confiscate [the perpetrator’s] share of property and brand [him].

§ 148 In cases where an unmarried girl above the age of 11 or a widow from among the four classes and thirty-six castes commits
a crime resulting in the loss of life, she shall not be executed, given the
demerit of killing a woman. Nor, since she is a woman, shall her prop-
erty be confiscated; rather, she shall simply be branded.

§149 In cases where [a member of] the Rājapūta caste kills a per-
son, he shall be executed—taking life for life. If he commits adultery,
the wronged husband has the right to decide [whether he shall be exe-
cuted or not]. If [a member from] the Rājapūta caste commits crimes
other [than these], he shall be punished in accordance with the Ain, but
he shall not be executed.

§150 If an Upādhyāya Brahmin or any other Brahmin from any
caste group; an ascetic whose father is/was an ascetic and whose ma-
ternal line of descent is not known; the offspring born to a Daśanā-
ma ascetic, a Jogī, a Jaṅgama ascetic or Sebaḍā ascetic and a chaste
Brahmin widow taken as a concubine; or a Ramatā ascetic, Phakira
or Kānacitrā/Kānapaṭṭā ascetic whose father and maternal line of de-
scent are not known commits the crime of taking a human life, he shall
not be executed, [but] his share of property shall be confiscated in ac-
cordance with the Ain, and he shall be branded.

§151 If [a member of] a Rājapūta caste [or] any [other] non-
Brahmin Sacred Thread-wearer or Non-enslavable or Enslavable
Alcohol-drinker or [any other] such caste—(1) who has become a tons-
sured (muḍiyāko) ascetic—for example, a Daśanāma, Jogī, Jaṅgama,
Sanyāsī or Sebaḍā [ascetics]—(2) who has remained true to [an ascet-
ic's] duties (dharma), and (3) who has no household (i.e., who has taken
the vow of chastity)—if a wearer of such a habit kills a person, he shall,
in accordance with the Ain, be branded and his share of property shall
be confiscated.

§152 If [a member of] a Rajapūta/Rājapūta caste [or] any [other]
non-Brahmin Cord-wearer or Non-enslavable or Enslavable Alcohol-
drinker or any [other such] caste who has become a tonsured ascetic
[living] with Daśanāma, Jogī, Jaṅgama, Sebaḍā or Sanyāsī ascetics
[but then] establishes a family, remains true to a householder's duties
(grhaśhadharma) and assumes a householder’s clothing—if such
a man] kills someone, he shall be executed—taking life for life.

§153 If a speech-impaired man or woman who is of sound mind
and able to communicate [reasonably well] (vākya phuṭnu) kills a per-
son, he—if it is a man who belongs to a caste whose members may
not be executed—shall, in accordance with the Ain, be branded and
his share of property shall be confiscated; if it is a woman, she shall be
branded but no property shall be confiscated. If it is a man who belongs
to a caste whose members may be executed, he shall be executed—taking life for life.

§ 154 If a speech-impaired man or woman who is dull-witted but able to communicate [reasonably well] kills a person, there shall be no taking of life for life. If it is a man, he shall be imprisoned for 12 years; if a woman, she shall be imprisoned for 6 years. Even though the [perpetrator] offers twice the amount [required to waive imprisonment], it shall not be accepted.

§ 155 If someone who does not know what is proper to do and what is not roams around [as if] in a state of enlightenment and eats tabooed food that calls for loss of caste, or engages in merely one of these mentioned activities—if such an insane man or woman kills a person, [the perpetrator]—if it is a man—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall be branded but no property shall be confiscated.

§ 156 If an insane man or woman who knows what is proper to do and what is not, who does not eat tabooed food and who does not roam around [as if] in a state of enlightenment kills a person, [the perpetrator]—if it is a man belonging to a caste group whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated; if it is a woman, she shall simply be branded. If it is a man who belongs to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 157 If an insane man or woman who has killed a person [never] ate tabooed food, excrement or the like before committing the murder but is learned to have roamed around [as if] in a state of liberation and to have eaten tabooed food, excrement or the like afterwards, it can be understood that they ate [such things] in order to save their life. Such an insane person—if it is a man who belongs to a caste whose members may be executed—shall, in accordance with the Ain, be branded and his share of property shall be confiscated; if it is a woman, she shall be branded but no property shall be confiscated. If it is a man who belongs to a caste group whose members may be executed, he shall be executed—taking life for life.

§ 158 If [the offspring of] someone who has been relegated to a lower caste through [the act of] caste degradation of having one's head shaved, or who has been relegated to a lower caste for [the lesser fault of] having committed adultery with someone of a lower caste, or else for having consumed cooked rice, water or the like [under circumstances] leading to caste degradation—[if such a person] kills someone
[else], he—if, while having lost caste, still belongs to a caste whose members may not be executed—shall be branded in accordance with the Ain, and his share of property shall be confiscated. If, in having lost caste, he now belongs to a caste whose members may be executed, he shall be executed—taking life for life.

§ 159 If someone is killed by a person who was born to one who has been relegated to a lower caste through [the act of] of caste degradation of having one’s head shaved, or who has been relegated to a lower caste for [the lesser fault] of having committed adultery with a partner of a lower caste, or else for having consumed cooked rice, water or the like [under circumstances] leading to caste degradation—then [the perpetrator] shall be punished in accordance with the [specific] law applying to the caste to which [the parent] had, in accordance with the Ain, been relegated.

§ 160 When someone who has committed a crime (bejāi) and by legal decision (nisāphale) is to be beaten [for it] is seized by 3 or 4 persons and beaten, but then, while being beaten he himself makes the mistake of compounding his crime by wielding a weapon, and if [in doing so] he takes a human life, he shall be executed—taking life for life. If [the other] did not die but was injured when [the perpetrator] was frantically wielding his weapon, then, since the latter wielded a weapon himself when he was being beaten, the wound shall be measured by length in the case of striking and by depth in the case of stabbing, and [the perpetrator] shall be imprisoned for as many years as [the size of] the wound in fingerbreadths.
C. Edition and Translation of Documents

Document 1 (DNA 4/100)

A letter from Raṇavīra Siṃha Thāpā to General Bhīmasena Thāpā (VS 1892)

Edited and translated by Rajan Khatiwoda; dated VS 1892 (1835); National Archives, Kathmandu; microfilmed as NGMPP DNA 4/100 on 17/04/2000; for the digital edition, see https://nepalica.hadw-bw.de/nepal/editions/show/1074.

Abstract: This letter, authored by Raṇavīra Siṃha Thāpā from Pālpā in Tānasena and addressed to General Bhīmasena Thāpā, seeks clarification regarding previously issued lālamoharas. The lālamoharas pertain to theft, robbery, and the application of the death penalty in cases involving the latter offense, prior to the signing of a treaty with the British Indian Government aimed at preventing crimes, particularly cross-border theft and robbery.

Edition:

[Ir-part1]

1 नं ४३९,¹

[Seal]

¹ The manuscript number has been inserted by a second hand.
Note that in the edition, both the double dot (..) and single dot (.) above the letters (akṣara) are represented by a single dot (◌̇) above. However, it is important to acknowledge that at times they have been used to distinguish nasal sounds.

The eulogy is composed in Sanskritized Nepali, which means that the standards of Sanskrit grammar have not been adopted in the edition.
तपायको ल्याइलाई उठाइलाई ढाका छोरिका कुरामा सास्ति भन्न झै। परीक्षको लालमोहरमा यसको दििा हुनाले नित्ती गरि पठाउको हो। दोह्रा पाठको बन्दीवस्तका ल्याउँको लालमोहरमोहरी ढोहरो उद्ध तेपाल ---१--- का अम्लका मानिसले सकार।

Translation:

Hail! This letter is preceded by [assurances of faithful] Service! Service! Service! [and] crores and crores of eight-point prostrations (sāṣṭāṁgadaṇḍavat) performed by Raṇavīra Siṃha Thāpā to the feet of [my] five times venerable elder brother General Bhīmasena Thāpā, a fit [model] for comparison, most venerable because of every [good] quality and capable of carrying out (lit. elevating) the king ' s heavy tasks and of firmly holding a sword.

[We are] here fine by the blessing of [your] feet. If [your] feet there are well, happy, auspicious and steady, all our affairs will be protected and advanced. Furthermore, the tidings here are good. The compassionate letter written on Thursday, the 13th of the dark fortnight of
Śrāvaṇa arrived on Tuesday, the third of the bright fortnight. [After I read] each paragraph [of it], the extent of its meaning [was understood]. I bow down my head [to your feet]. [Regarding the] following: The letter of instruction [from you which states the following] has arrived: ‘The content [lit. matter] of the rukkā [containing] details of the mutual extradition of robber[s] has also been sent to you stating [the following:]’ “From now on wherever a robbery is committed, [either] at a location [in the jurisdiction] of our ---1--- (i.e., śrī 5 sarkāra)⁵ [or] of the Company Government, the local authority shall administer punishment.” Lālamoharas have been issued and sent from place to place [relating] to [two] rukkās, [one of them containing] the above-mentioned details and [the other] [prescribing] arrangements for the proclamation (urdi dinyā) regarding [this] matter of robbers, [to be announced] by the beating of drums. [These] 2 lālamohara[s] will be going [and] reach there [where you are] too. It would be good if [you could] perform the task of sending from place to place the proclamation that [whoever] does not act according to [these] lālamohara[s] [but] contrary to [them] will be punished in accordance with what is written in the lālamohara[s]’.

This is very proper and good. The [four following] lālamoharas have arrived:

The lālamohara on compensation for the 2 [murīs] and 15 [pāthīs] of kheta⁶ [granted] to the regiment of ---2--- as jāgira [but] destroyed by landslides and flooding [lit. river] on the kheta [next to] the river ---1

The lālamohara reflecting the older border pillars under the name of Maheśvara Pāde ---1

The lālamohara on robbery ---1

The lālamohara on the proclamation regarding robbery and theft ---1

---5 The number mentioned in the text refers to the phrase śrī 5 sarkāra, which translates to ‘five-fold venerable ruler,’ a term commonly associated with the Śāha king. This specific phrase, śrī 5 sarkāra, is written in the space above the main text. However, due to fading over time, the writing in that area has become unreadable. Nonetheless, based on the date of the document, it can be concluded that Rājendra was the reigning king during that particular period.

---6 Generally, kheta refers to irrigated land in the hill region that is suitable for the cultivation of rice and wheat. Additionally, it serves as a unit of measurement for land in the hill region, equivalent to 25 ropanīs or 100 murīs (approximately 1.25 hectares).

---7 The number mentioned in the text is a reference to a person whose name is written in the space above the main text. Unfortunately, due to fading, the text on the space is unclear, making it difficult to determine to whom this number refers.
As to one [of them]: You had sent me a draft of the rukkā asking for my opinion [and containing the following] details: ‘Wherever a robbery is committed, [whether] at a location [in the jurisdiction] of Nepal ---1--- (i.e., śrī 5 sarkāra) or Company Government, the local authority (mālikale) shall exact punishment [by] executing the robber. If persons under Nepal ---1--- (i.e., śrī 5 sarkāra) commit robbery at a location [in the jurisdiction] of the Company Government, [the offenders] shall be punished by the Company Government, [while] if persons under the Company Government commit robbery at a location [in the jurisdiction] of Nepal ---1--- (i.e., śrī 5 sarkāra), [the offenders] shall be punished by Nepal ---1--- (i.e., śrī 5 sarkāra).’ [My opinion is that] it would be good to issue double (i.e., in villages and in kacaharīs) proclamations every 15 days.

[As to the lālamohara on] issuing the proclamation, it has [the following] details: ‘Because of robbery and theft in the cross-border areas, the friendship [between Nepal ---1--- (i.e., śrī 5 sarkāra) and the Company Government] will suffer, and their peoples, too, will. Therefore, [the proclamation, announced by] the beating of drums, that anybody from the Four Varnas and Thirty-six Jātas shall be punished by death if [charges] of theft and robbery are proved shall be delivered in every pragannā8 [and] mauje9. From now on the same proclamation shall also be delivered in kacaharīs every 15 days and warnings continually issued.’ It seems to me that if the proclamation is delivered every 15 days—that robbery or theft committed in the British-[Indian] territories shall carry the death penalty—our subjects will be very alarmed and the country will fall into some disrepute.

There is one detail in the lālamohara concerning arrangements [and] one [other conflicting] detail in the lālamohara concerning the proclamation, and therefore I have sent a request [for clarification]. The double proclamations based on the lālamohara concerning arrangements for the double readings—if persons from Nepal ---1--- (i.e., śrī 5 sarkāra) territory go to commit robbery or theft in the territory of Company Government, [the offenders] shall be punished by the Company Government, [and] persons from Company Government territory go to commit robbery or theft in the territory of Nepal ---1--- (i.e.,

8 *Pragannā* refers to an administrative district consisting of multiple villages under the supervision of a *chaudharī*. In the past, the Saptari District included 14 *pragannā* (Krauskopff & Meyer 2000: 185).

9 *Mauje/Maujā* refers to a unit of land revenue administration in the Tarai region. It is a term used to describe a specific measurement or division of land for administrative and revenue purposes (see Krauskopff & Meyer 2000: 185).
śrī 5 sarkāra) [the offenders] shall be punished by Nepal ---1--- (i.e., śrī 5 sarkāra)—are scheduled [to begin] from Kārtika/Kāttika of the [Vikrama] year [18]91. Should there be the beating of drums every 15 days [announcing] that if a robbery or theft is proved, the offender shall be put to death? It is seen to be the case that in the lālamohara concerning arrangements with British-[India] [the offender] is to be put to death only in the case of robbery, [whereas] the lālamohara [issued] later states: ‘if robbery or theft is proved, a death sentence shall be imposed.’

Regarding the matter of theft, [confusion arises] because the two lālamoharas do not agree in detail when ordering the proclamation concerning theft: whether one who steals a cow, buffalo or [any] important or main object (prādhāna) is also to be called a thief. [Is it the case that] only one who breaks into houses and commits robbery [is to be called a robber], or is someone who steals a cow, buffalo or prādhāna also [included]? Should the proclamation be made according to the prior lālamohara [to allow for] a double field of application of robbery or according to the later lālamohara concerning theft as well as robbery, each with [its own] strict fields of application? If you could kindly request [clarification of] this matter from ---1--- (i.e., śrī 5 sarkāra), I will have the proclamation delivered according to [his] order. [What more to say] to the feet of a knowledgeable one?

Thursday, the 5th day of the bright fortnight of Śrāvaṇa in the [Vikrama] era year 1892 [1835]. From Pālpā, Tānasiṃ [Tansen].
322 — C. Edition and Translation of Documents

[1r-part2]
Document 2 (DNA 14/4)

A *rukkā* from King Surendra ordering the execution of Hari Goḍīyā for an act of homicide (VS 1937)

Edited and translated by Rajan Khatiwoda; dated VS 1937 (1880); National Archives, Kathmandu, Ms. no. 425; microfilmed as NGMPP DNA 14/4 on 04/07/2000; for the digital edition, see https://doi.org/10.11588/diglit.39465.

**Abstract:** This *rukkā* issued by King Surendra to Captain (text: *kaptāna*) Mvāna Siṃ Svā̃ra Chetrī lays bare formal procedures for carrying out the death penalty on Hari Goḍīyā, who was found guilty of killing Vadala Siṃ Thāpā.

**Edition:**

[1r]

1 श्री१०

[Royal seal]

1 श्रीमद्यम्रचण्ड-११
2 भुजण्डर्यादिी- 
3 श्रीधीश्रीमहारा- 
4 जरणुदीपसिं- 
5 हरणावहादुर- 
6 केनीसमधाई- 
7 थोकीनपेी- 
8 म्माकोकाङ्वा- 
9 इस्सान्स्राइपू- 
10 ग्रांक्याङ्दर्ख- 
11 नचरीफ् ---१२

---

10 This portion is not visible on the facsimile provided below.
11 For *śrīmad atipracaṇḍa*.
12 This has been written in the upper left-hand margin of the document.
स््वस्स्ति श्रीमन्मिािाजाधरीिाजकस््य
रुक्ा ---
आगे कप्ांन्  म््वानससं स््वााँि छेत्ररी प्रतिरी । म आफ ु गोडरी्या जाति भै ३४ साल्का श्ा-
्वण सुिरी ३ रोज १ का राती पाहाडपोपरा सीमल टोलू बर्या वद
ल सिं धारालाई राती सुती नीदायाका वपत पारिः वेहुक्मा पुकु-
रिले २ चोट धीक्रमा हानी कार रीजका कम्र्लो सुती तोला
१ कंपनी रू ४० स्मेतु ली म भागी गयाको साचो हो भनी मोगलाना
३५ साल् फारुण बदि ७ रोज ५ मा अमिनी अदालतु कनहरि-
मा कायदनामा लेपी दीयाका मुट्टिमा धनमालका लावाले र-
यो वा अहू केही ईवाले अर्नलाई हरीयार गैहले हानी रोपी मा-
नीस मारों भन्या मान्या नकाटीया जातको लोस्या मानीस भ-
या ऐतवमोजिमूको अंस स्वबंस गरि स्वाष नापिस भन्या सर्व-
स्व नापि दामल गर्नू कारिंतु जातको लोस्या मानीस भन्या [्या]-
नको बदला ज्यान कार त मारिदीतु भन्या ज्यानमारका ९ लम्ब-
र वेहुक्मा मानीसको ज्यानु मारों मानीसमा ऐने मा ज्यान लि-
तु पगदी अब्रुप्तः फालनु टकसीर14 गन्त्या फलानलाई इस्ले मा ज्यान
न मानिका फलाना ढाओमा लगी ज्यान कारी मारु वा फासी दी
मारु भन्नो लालमोहरमा लेपाई सो लालमोहरमा जीन जगा-
मा लगी मारु भन्या लेपीयाको ्व उसे जगामा लगी उसे ढाओका
ढोइ ढीढो हलानु पन्द् जातका हावतां कटाई मराङु वा फा-
सी दीलाई मारु भन्या ज्यान नीदाको र मुहुङ्ग दामलु गर्न ग-
्न्यालो ७ लम्बर ज्यान जात्या मानीसको ज्यान मारु पहादुदा र
मुडू नन्यालाई मुही धापादा उसले फालनु टकसीर15 गन्त्या र बस्को
ज्यान मारिद्या बयो अथा मुडीयाकालाई मुडीयो भन्या
सहरका दोलु दोलुमा ढाङ पीटाइ नैजानु भन्या सोहि महलका
११ लम्बरका ऐतवमोजीम् नीज हरी गोडीयाले बदल सी धापा-
लाई धनमलुका लालचाले राती सुती नीदायाका वपत पारिः [्े-
हकमा पुकुरियै २ चोट धीक्रमा हानी कार धलेमा मारयामा
नीलजाई पाहारपोपर भन्या सबैले देख्ने चोरामा लगी ताहिका
ढोइ ढीढो हलानु पन्द् जातका हावतां ज्यानको बदला ज्यान का-
ढी मानिका ठहरायें भनी नजा मुहुङ्ग जीले कैलाली अमी-
नीका लेफ्टेन् वालरसी स्वार छेेती बीचारी कासिनाथ [...] -
रिले ३६ साल् श्रवण बदि ३० रोज ६ मा अदालतु इटापुली-16
मारकत चहारुको रपोटमा हककमु मर्लले स्मेतु सदर भै आया-
वमोजीम् माल्का हककीमु कपटान16 म्यान सिं स्वार छेेतीका ना-
उमा लालमोहर लेपाई सो लालमोहर रमाना गरिप घाताइ-

13 For 9dhirājakasya.
14 For taksīra.
15 For taksīra.
16 For kapatāna.
दीन्या ठहरायम् जो हुकम्मू मर्जि भनि अढाट्नु हटाचपलीबाट सु- ज्ञा चंद्रकांति अज्ञायले ---१---का र भीमद्राजकुमार कुमारा- तमज भी कम्यांडर इन निचोङ्र जनरल धिर साम्सेर जडृ राणा बहादुर- का हुजुरमा बीती पारी र नीजहुमा पनि हामा हुजुरमा बीती पारि जहेर गरायाकामा नीज हर गोदयाले धनमालुका ला- लवले बदल ती जापालाद राती सुती नीदायाको वसत पारि वे- हकमा पुकतिर दो चोट ढोक्रामा हानी बलीमा मार्था वाचत सो- ही ज्ञानमाराका ९ ज्ञान नीदाको र मुहदा दामल गर्दा (…) १२ तम्यंगा ऐनवमोजिमू नीज हर गोदयाको ज्ञान मार्थ बथायदा१७ यसले बो कसुर गदार यसको ज्ञानसजाय हुन्या भयो भनी झाज पीटाउन लगाई नया मुलुक बैलाती शीलाबर हुमाई नीज हर गोदयालाट चहारपोपरा१८ भन्या जमाका चोरमा लगी ताहिका छोट छोटो हालनु पन्था जातका हालवा- ट ज्ञानको बदला ज्ञान साँट मार्दीनाको हुकम्मू बक्स्यो। इ- १३ सम्बत्तृ १९३७ साल मही बैसाथ बढि १ रोज १ शुभम।

[1v]

1 मार्फत राजपुरु द्विजराज पण्डितधिम्
2 मार्फत सुव्या चन्द्रकान्त अज्ञायलु
3 मार्फत पुष्पोहित पजांचि वामदेव पण्डितधिम्
4 मार्फत१९ कम्यांडर गणेल सनक सिंटेडलाहरी छेत्री

Translation:

Śrī २०

[Royal seal]

17 For pathāudā.
18 For pāhāra.
19 For māṛphat.
20 The term śrī is a word of blessing that carries multiple meanings depending on its usage. As an appreciative word, it signifies ‘good fortune’ (Pant & Pierce 1989: 12), expressing well wishes and positive outcomes. It can also function as a prefix to names of individuals and deities, conveying a sense of reverence or glory. The number of ‘śrīs’ used can vary depending on the context, emphasizing the degree of respect or auspiciousness associated with the person or deity being referred to.
The thrice venerable great king, who is mighty and has an arm like a staff etc., KCSI, Thong Ling Pinma-Ko Kang-Wang-Syang 21 Prime Minister and Commander-in-Chief Raṇoddīpa Siṃha Rāṇā Bahādura ---

Hail! [This is] a rukkā of the supreme king of great kings.

To Captain (Kaptāna) Mvāna Siṃ Svā̃ra Chetrī.

Āge: 22 Regarding the trial of Hari Goḍīyā, residing in the maujye (i.e., maujā) of Bajhahī, Pallāpura, Baharāica, Mogalāna: On Thursday, the 7th 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 Kacaharī [court] 23, stating: “It is true that on Sunday, the 1st 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 Simala Tola, Pāhāḍapokharā, during the night while he was sleeping by stabbing [him in] the throat twice with a khukurī and then fled with 1 tolā 24 of gold and [East India] Company Rs. 40 which he had at his waist.” On Saturday, the 30th of the dark fortnight of Śrāvaṇa in the [Vikrama] era year [19]36 (1879), Lieutenant (lephṭen/lephaṭena) Bālanarasiṃ Svā̃ra Chetrī and Bicārī Kāśīnātha [...]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—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

21 According to R. Shaha, this title was first awarded to Prime Minister Jaṅga Bahādura Rāṇā in 1871 by the Chinese Emperor. As explained by Shaha the title has the following meaning: “... the Highly Honoured Commander and Instructor (disciplinarian) of the Army, the Aggrandizer of the Country and the Satisfier of the Low and High by Increasing the Reputation and Revenue of the Country” (Shaha 1990, vol. 2: 257–258).

22 Lit. ‘henceforward,’ especially used in administrative and legal documents to mark the beginning of a text or paragraph.

23 For further information on the function of this court in Terai, please refer to R-Ain.

24 This term used to refer to a unit of weight and standard measure for gold and silver. It is composed of 100 or 96 rati, 10 or 12 māsās, and is equivalent to \( \frac{1}{80} \)th of a sera. It is important to note that the actual weight of a tolā varied based on the specific place and time. For instance, the weight of a tolā could range between 11.599 to 11.642, corresponding to the weight of the Bombay or Sicca Rupee.
for any other reason by striking or stabbing him with a weapon or the like, the offender—if it 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 he shall be punished by dāmala; 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 executing, shaving and dāmala: ‘When the law calls for putting an offender guilty of homicide to death, from now on a lālamohara 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 lālamohara and executed by beheading or hanging at the hand of a local Untouchable caste member.’”

[Then] Subbā Paṇḍita Candrakānta Arjyāla (text: Caṃdrakāṃta) on behalf of the Iṭācapalī Court submitted a request to ---1--- (i.e., Prime Minister and Commander-in-Chief Raṇoddīpa Siṃha) and Venera-ble Prince born of a prince and Commander-in-Chief Dhīra Samsera Jañ Rāṇā Bahādura, stating: “[The above-mentioned] report has been approved by order [of the king], so that we have decided that a lālamohara shall be issued to the chief of the Māla [Aḍḍā], Captain (text: kaptāna) Mvāna Siṃ Svā̃ra Chetrī, 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 came to our attention [through the request sent by the [Iṭācapalī 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 hand of a local Untouchable caste member in accor-
dance with Sections 9 on homicide and 9 (sic) and 11 on executing, 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 khukuri.”

On Sunday, the 1st of the dark fortnight of Vaiśākha in the [Vikrama] era year 1937 (1880). [May it be] auspicious.

[1v]

Through (mārphat) Rājaguru Dvijarāja Paṇḍita
Through Subbā Candrakānta Arjyāla
Through Guruprohita(purohita) Khajānīcī Vāmadeva Paṇḍita
Through Commander Colonel (Kamyāṃḍara Karṇaila) Sanaka Siṃ Taṃḍālāhuri Chetrī

Commentary:

The present document has been issued to authorize the implementation of death penalty for a murderer who committed the act during a theft. It provides a detailed explanation of the necessary procedures involved in imposing the death penalty. Initially, the local court conducts an investigation into the crime and prepares a report recommending an appropriate punishment, taking into careful consideration the relevant provisions of the MA. This report is then forwarded to the king through a higher court known as the Iṭācapalī, which adds its own considered observations. Upon approval by the king, the report is transmitted to the prime minister. Once approved by the prime minister, a lālamohara is issued by the king to the designated individual in the local court responsible for carrying out the death penalty. The inclusion of these court procedures and direct references to the pertinent Articles of the MA serves as a significant indication of the MA's implementation.
Facsimile:

[Ir-part1]
330 — C. Edition and Translation of Documents

[1r-part2]
Document 3 (DNA 12/1)

A lālamohara from King Surendra acknowledging Rūpalāladāsa as mahanta of Basahiyā Maṭha (VS 1927)

Edited and translated by Rajan Khatiwoda; dated VS 1927 (1871); National Archives, Kathmandu; Ms. no. 233; microfilmed as NGMPP DNA 12/1 on 12/06/2000; for the digital edition, see https://nepalica.hadw-bw.de/nepal/editions/show/1399.

Abstract: This lālamohara of King Surendra calls upon Rūpalāladāsa of Basahiyā Maṭha, Mahottari to enjoy the post of mahanta and directs him to identify Rāmadāsa to be his successor.

Edition:

[1r]

श्रीदुर्गाज्यू

४७

श्रीमददत्राज्या- जुजुन्द्युत्वादि- 

श्रीधरीधराजज्ञुयादि- 

श्रीधरीधराराज 

जहुंहारिद्दरराणा

डी.सी.डी.प्राइम.

मिनिष्ट्र्याण्डक- 

म्यांड्रडन्चिफ्फ [---] २७

[Royal seal]

1 स्वस्ति श्रीगिरिराजज्ञुस्कुडामणिनराजण्यादिविशिवदिविक्षालीवि- 
2 राजमानमाोशत्रीमभाराजाधिराजधीमभाराजसुरेन्द्रबिक्रमसाह- 
3 वहुदूसम्नसदिरहारिदद्यवानां सदा समरविजिन्याम् --- 
4 आये रजीले महात्तरि बस्तिया मलका महत्त रुपलाल दासके मेरा गुरु मोहन्दाय- 
5 ले मलाई महत्त्याजीको तिलक कंटि भला मानिस स्मेतु राजी दि जानुभयाको हो।

25 The term mahanta (also spelled as mahanita) refers to the temporal and spiritual leader of a centre (such as āśrama, maṭha, sthāna, akhāḍā) or a wandering group (khālsā) within an ascetic order.
26 This has been added by a second hand.
27 This has been written in the middle left-hand margin of the document.
सो महत्त्वाच्यौ मैले २० सालमा चलायाको विख्याति । २१ सालमा अधिक भयाको वेदोरा
द्वारमा महत्त्वाच्यौ मनाई दि जानु भयाको हो भनि कालिदासले हुरो विनित पा-
रि रक्शा दस्तू गराइ ल्याई मेरो महत्त्वाच्यौ जान्या होइन भनी वालादासले वा-
दि इजहार दिया र मेरा गुरु महत्त्वाच्यौ मनाई दिेरी अर्थात् मैले रुपे-
या स्मेत राज्याको विख्याति र निज गुरु धर्म हुंदा पनि नीज वालादास स्मेतू जना
४ ले महत्त्वाच्यौको कामज मलाई लेपीदिदा मैले नीज गुरुको काजको बनो-
मेतू गरि महत्त्वाच्यौ चलायारणीमा वालादासले जबरदस्थ ३८ गरि महत्त्वाच-
यौ चलाउिा मैले ---१---का ह्युरुमा जङ्गी पार भरायमा वेदोराको
रक्शा दस्तू गराइ ल्याई हो हुरो विनित पार नाम्याको होइन भनि जिल्ले
महत्त्वाच्यौ वार्तालाङ्का महत्त्वाच्यौ कालिदासले प्रतिवादी इजहार दियाको मुद्दामा
इजहार प्रमाण अहारे विचार गर्को ऐन सवालका रुहने मेरुमा हुंदा मोहनदास छैै जन्यहर
मोहनदास छैै जन्यहर (भा)रि कु ठिरिरका कागजको स्मेति् । भनि जेई ध्यान कारिी
कागजमा लेपीदिदा र निज गुरुमा मलाई नरीज गुरुको उपले ्येस्ति जना
मात्र शृद्धि १४ रोजका दीन काल लेपीदिदा काल नीज वालादासले कि-
व्ययामा सही कालामा लेपीदिदा सार्धी स्मेतू रक्शा दस्तू गरि किकाइ जेश-
ढा सुपरामदास र इन मारी लेपीदिदा मा सही १ ले थो काल्यानी होई-
न सेठे हो बेदमा थेस्ताले भाकन पयामा भाकुद्धो भन्नाया मुरुको ब्रकुपन्त्र लेपी-
निदियाकिसु अर्दासले काळिदासको ५६ लंबका ऐनमोतिनेकी रोज रोज हाली ह्रे-
्नै र १५ दिनमा गैर पयामा भन्नाया परिवर्तनेमा रेते जीत हुथा भनाय पनि मेरे
हार गरि मेरो जागियादिको जीत गारिन्दी भन्नाया मुरुका डृश्यमा २३ साल मारि शृद्धि
१४१५ रोजका दीन लेपी ५ दिनमा कुठिरिरका सामेल मे १० दीनदेखी भाष-
गी गर्वाको आजसम्म कुठिरिरका सामेल हुन नआयापछी महत्त्वाच्यौ का-
मिदासले जेला रामदासकुलाई धीन उपले नपाउन्या महत्त्वाच्यौ मा पाउन्या
हुं भनि समाप्त वाैवुला वालादास भार्याको हुनाले नीज अदालत कालिदासका
५६ लंबका ऐनले जाउदनु गलाल घडार एकी नहुंदा नीज वाला-
दास फेला पर्याकका दीन ज्ञातकी लेपाई गुत्थी ३४ लुकरका ऐनले सो
ही मस्तक जागर तनस्त्री बोदी कण्ठकी स्वीकैया ३००० डंड गरि तियात लेको ती-
तियाय स्थाएँ गरि स्थाएँ पुनिर्थापटी छोडिनित । महत्त्वाच्यौ मुरु निदित्त वाैवुला रामदासके बुदा मुडीको जन्य कागडको ऐले ३० चाही छैै जना
३२ जिताराइ हटी नीज रामदासका जागरको बहाली चलाइदी जिताराको रक्शा दस्तू छैै
रेव मस्तकी जिताराय गदी तोकुमा इजहारका रुहने तोकुमा लेपीडी तापारी
रामदासकुले आफुहा घरायेमा सिल्या मारीको कागज गरि जानिनामा ऐन-
ही दीनदेखी घरायेमा मारीको उपले स्मेतू हाली नीज रुपलाल-

28 For javarajasti.
29 For damda.
30 For damdarko.
दासका नाउमा रक्खा दस्तावेजको जितापत्र गरी जगडाँ चिनिदीन्या ठहराइ जंगी अदालत १ लंबरका दिनु ेनलाल वुलाकोतै विचार्य तप्षील गुनी पाठ्यको ले २३ साल मीती साँझ बढी २ रोज २ मा साधक कोलस्रा झाँहर गराउदा कौसल्यासह आँचली बुझी अडाले ठहराइ न्यायावासमोजीयमु नुसासिक ठहराई-हा साधका हाल्दा झाँहर भयो। तस्मपु यो साधकका हुकमले मर्तको सदर गरिर्मक्यामोजीमु आफुके यपाउन्या झिल्ले महत्तिर वस्तुहाको महत्त्या- धी मद ३ पात्यका हुने भनी बालादामले इजहार चढाइ महत्त्वकालसम्य संघ पुर्वको हुदेमा निज महत्त स्दा नीज महत्तका चेला रामदासले र नी- ज बालादामले अदालत वन्नेट्रका ५६ लंबरका ऐन मोकाही मर्तक रोज झाँहर भनेपारी र १५ दीनसम्बध गैर पमारी भन्ता जीत हुन्या भन्ता पनी हार गरी झिल्याको झीय नामुदीन्या भन्ता मूलुक्या लेपी ९ दीनसम्बध हारी भै दसरी मीनदीपि भागी जाँदा नीज बालादामसुलाई गुढैका ३४ लंबरका ऐन लेने बालादामसु फेला पयालका दीन ज्ञानबन्दी लेपाध तलुकी बोदी ३ हजारो र पंडी ३३ गरी निर्मान पूजिया ली नामी रैड गरी रैड पुण्यार्थी झिल्याको भन्तु महत्त्या धी मद झिल्या बाल्ल बुझी गुढै झामाको ऐनले रामदाससंघ जिताउले कमली थप्पै ७५० ली नीज रामदासका नाउमा जितापत्र हुदुन्न्या वो तपानी आण्याआय झिल्याको महत्त्याल ज्ञालातु अर चेला नुवालाउ- तु कारोबारी लेने हुनु जिम्या सेपाँदी यो नुङ्भ्याकी मैले बालादामसु भन्ता वेन्छोराको निम्या पुर्कात रामदासले गराणेमा राजीनामा लेपी तिमीलाई झिल्याको झां धीयाका हुनान्या सोव्रोजीया निम्या जिताउले भन्ता मर्तको महत्त्वाली चढाइ रामदाससुलाई कारोबारी तुल्याल महत्त मोहनदासले बर्च आयाब- मोहिया आफुका पारीर जामासंग महत्त्याल जानी नीज बाबोदी महट- को चलन्नु अर चेला नुवालाउतु जिम्या सेपाँदी नीज रामदासले महत्त्या- धी हुने भनी जिताउलको रक्खा दस्तावेजपरिवर्ती भन्ता वेन्छोराको २३ सा- ल फागुन बढी १३ रोज १ मा मेरा नाउमा रक्खा दस्तावेज भन्तु महत्त्वाली चलन्नु गर्याको हो बालंदोहर भन्ता छेत्र भनी तिमीले ---१---का हुजुरमा विद्भ गर्याको सीतार भी नीज ---१--- र ब्रह्माजुकमार कुमारात्रम जीयाद्याहरु- र इन चिकु जनाबल राखुदीप सीह कुशर राणाबाट हामा हुजुरमा विद्भ पाँ- दी झाँहर भयो। तस्मपु यो जातापत्रमोजीमु निम्या ज्ञ्याउले निज मर्तको महत्त्या धी चढाइ रामदाससुलाई कारोबारी तुल्याल महत्त मोहनदासले बर्चआयाब- मोहिया नीज बस्तिया मद अस्थानका तालुक्को जगा भोगचलनँ गर्नु । अर चेला नुवालाउतु जिम्या सेपाँदी नीज रामदासले महत्त्या धी हुने भनी हमालात पनी तिमीलाई नीज वस्तिया मद अस्थानका महत्त्यालको लात्मोहर गर्वक्याय अस्थानमा झिसेदीपि दलि झै आयाबोजीमा निच्चय नैमरीत्त्यक हुँ ध्म्त सिा्वति्थ चलाइ ज्य नमा- ई आफु नामीलाई जा्यासंग महत्त्या झानी भोगमा गर। इति सम्बत १९- २७ साल मीती चैत्र बढी (...), रोज (...) युवमु ---

31 For *daṃḍa.*
Translation:

Venerable Durgā!

Thrice venerable Mahārāja Jaṅga Bahādura Rāṇā G.C.B. Prime Minister and Commander-in-Chief, [he who holds] a formidable club in the form of his arms---

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 (an epithet of Krṣṇa) etc., high in honour, the venerable supreme king of great kings, the thrice venerable great king, Surendra Vikrama Śāha, the brave swordsman, the divine king always triumphant in war.

To Mahanta Rūpalāladāsa, head of Basahiyā monastery in Mahuttari District.

Bālādāsa filed a lawsuit, stating: “My teacher Mohanadāsa conferred upon me the office of mahanta, placing as he did a mahanta’s tilaka (blessing mark on the forehead) and kaṇṭhī [on me] and noble men (i.e., the monks) [under me].” I ran [the monastery] as its head till the year [VS 19]20 [1863]. Kāsīdāsa made false petition, suppressing previous details from the year [VS 19]21 [1864] and had a rukkā issued that stated: ‘[Mohanadāsa] granted [the office] of mahanta to me.’ [Thus] my [claim to] the office of mahanta is not to be dismissed. Kāsīdāsa, head of Basahiyā monastery in Mahuttari District, filed a lawsuit as a respondent, as follows: “When my teacher Mohanadāsa granted me the office of head of the monastery, I even gave the money [that is the customary gift]. After my teacher died, four of my teacher’s disciples including Bālādāsa signed a document giving his consent to grant me the office of head of the monastery, but when I [started] occupying the office of head of the monastery, including performing the funerary rites of my teacher, Bālādāsa forcibly seized my office. Therefore, I made petition to ---1--- (i.e., thrice venerable Mahārāja Jaṅga Bahādura Rāṇā) with all the details and had a rukkā issued, and I did not make petition under false pretences. Regarding the lawsuit [filed by me] as a respondent, it
was determined by the Jaleśvara court, after calling officers and [other] authorities (pagari) as witnesses, that when the teacher Mohanadāsa was still alive the office of head of the monastery had been granted to me. I obtained the office of head of the monastery, giving the money [that is the customary gift]. Thereafter, when [my] teacher Mohanadāsa died, Bālādāsa, Sukharāmadāsa, Rāmajīvanadāsa and Prāṇadāsa signed a document [drawn up by the court] regarding my lawsuit on the 14th of the bright fortnight of Māgha in the year [VS 19]20 [1864] [and] witnessed by Gopāla Jhā, Rāmavakta (Rāmabhakta) Koi and Bhuvana Maṃḍara,” stating: “The office of head of the monastery was earlier granted to Kāsīdāsa by our teacher; thus today, too, we four agree to grant it to Kāsīdāsa.” [However], Bālādāsa claimed that the mentioned document [presented by Kāsīdāsa] was forged. When the witnesses to the above document were brought [to court] after a rukkā was issued [sum-moning them], Sukharāmadāsa (the eldest disciple [of Mohanadāsa]) and the three [other] mentioned witnesses gave a written statement to the effect that the document was not forged but is genuine, and that, if necessary, they were ready to swear solemnly [to that effect]. Thus, the court made the following decision in that lawsuit: “Bālādāsa agreed to follow [the provision of the Ain, writing a statement on the 14th and 15th of the bright fortnight of Mārga in the year [VS 19]23 [1866], as follows: If we are unable to present ourselves in court on a daily basis and are [once] absent up to the 15th day, then in accordance with section 56 ‘On Court Procedures,’ the court shall deem the party opposing me the winner of the lawsuit and me the loser, even if there is the possibility that I would have won the case.” He presented himself in court for the first 9 days. From the 10th day, he remained absent and has never come back to court. Therefore, the office of head of the monastery shall be granted to Rāmadāsa, a disciple of [the late] Kāsīdāsa. Since Bālādāsa has no house or property to confiscate in accordance with section 56 ‘On Court Procedures’ for having made a false claim to the office of head of the monastery, he shall be made to write a jabānabandī (written statement of the acceptance of a court decision) and fined 3,000 company rupees in accordance with section 34 ‘On Guṭhī Endowments’ when he is found. If the fine is not paid, he shall be imprisoned. After his prison term is over, he shall be set free. [One] shall take 750 company rupees, one fourth of the fine, as the victor’s fee, from Rāmadāsa in accordance with miscellaneous Articles on the law relating to ‘Guṭhī Land.’

When Bālādāsa was granted the land and a rukkā certifying his victory was issued to him, Rāmadāsa signed on household paper his
resignation from the office of head of the monastery and made an agreement with Rūpalāladāsa, giving this office to the latter. Therefore, Diṭṭhā Chandalāla Burlākoṭī and Bicārī Kapila Muni Pādhyā of Jaṅgī Adālata No. 1 came to the decision that it would be appropriate to dissolve the lawsuit by issuing a rukkā under the name of Rūpalāladāsa to certify his victory. They forwarded the decision to the Council on Monday, the 2nd of the dark fortnight of Māgha in the year [VS 19]23 [1867].

The Council investigated, deemed the decision of the lower court appropriate and forwarded it [higher up] for review. The Council's decision was endorsed. When the court proceedings were going on regarding the lawsuit filed by Bālādāsa against Kāsīdāsa in order to obtain the office of head of Basahiya monastery in Mahuttari District, which Bālādāsa would [in the end] not obtain, the head of the monastery, Kāsīdāsa, died. Rāmadāsa (a disciple of Kāśīdāsa) and Bālādāsa signed a document in accordance with section 56 on ‘Court Procedures’ stating that in the case where [either of the two] did not present himself in the court on a daily basis and remained absent for 15 days, the one who was absent would concede defeat and acknowledge the other as victor in the case, even if he [himself] had been likely to win the case. After that agreement, Bālādāsa presented himself in the court for the first 9 days. On the 10th day, he fled. Therefore, Bālādāsa shall be fined 3,000 company rupees in accordance with section 34 on ‘Guṭhī Endowments’ when found. If he does not pay that fine, he shall be imprisoned; when the prison term is over, he shall be set free. Rāmadāsa shall be made to pay 750 company rupees as a victor's fee in accordance with the miscellaneous Ain on ‘Guṭhī-land’. Thereupon, a favourable written judgement is to be issued under Rāmadāsa's name. Your (Rūpalāladāsa) classmate (gurubhāī) Rāmadāsa signed a waiver stating: "You (Rūpalāladāsa) shall occupy the office of head of the monastery as long as you live, but you shall not have any disciple, while I shall manage [the monastery's] secular affairs. I (Rāmadāsa) will assume the office of head of the monastery after your death."

It came to be known to us through ---1--- (i.e., Prime Minister Jaṅga Bahādura Rāṇā) and the venerable Commander-in-Chief General Raṇa Uddīpa Simha, a prince born of a prince, that you made a petition stating: “A rukkā but not a lālamohara was issued under my name on Sunday, the 13th dark fortnight of Phāguna in the year [VS 19]23 stating: ‘You (i.e., Rūpalāladāsa) shall make Rāmadāsa the [executive] manager of the monastery and enjoy the office of head of it as Mohanadāsa
did. You shall not have any disciple. Rāmadāsa shall be the head of the monastery after your death’.”

Therefore, we, too, hereby issue a lālamohara to you regarding the office of head of Basahiyā monastery, [with the following details]: “In accordance with the details written down in the favourable judgement, you (i.e., Rūpalāladāsa) shall make Rāmadāsa the [executive] manager of the monastery and enjoy the office of head of it as long as you live, as Mohanadāsa did. You shall also enjoy the detached land possessed by Basahiyā monastery, but you shall not have any disciple. Rāmadāsa shall be head of the monastery after your death. You shall continue with the daily and casual worship, rituals, festivals and dharmasadāvartta as they have been fixed and passed down by tradition. Celebrate our victories and enjoy the office of head of the monastery.”


Through (mārphat) the thrice-venerable great king Prime Minister and Commander-in-Chief G.C.B. Jaṅga Bahādura Rāṇā

Verified by (ruju) venerable Commander-in-Chief General Raṇa Uddīpa Siṃha Rāṇā
[1r-part2]
Document 4 (K 175/18)

A complaint (ujura) made by Samsera Bahādura Pāḍe re the Rājakumārī Pāḍenī case (VS 1934)

Edition and translated by Rajan Khatiwoda; dated VS 1934 (1877); National Archives, Kathmandu, Guṭhī Samsthāna, Bhadrakāli; 2; Guthi Jamina Vivāda; Ka. Po. 15 Gu. Bam.; microfilmed as NGMPP K 175/18 on 04/06/1991; for the digital edition, see https://doi.org/10.11588/diglit.39466.

Abstract: This document is a complaint made by Samsera Bāhādura Pāḍe, an inhabitant of Naradevī Ṭola in Kathmandu, against his kākī (wife of his father's brother) Rājakumārī Pāḍenī. She is accused of meeting her by then incestuous husband, Prthi/Prthvi Bahādura Pāḍe, accepting cooked rice from him and having sexual intercourse with him.

Edition:

[1r]

६६

1 संसेि बाहादुर पाडेको उजुर
2 ६ पुस्ताककि दिदि [र] भाउज््ययूसंग वात लास्नी भागी जात्यासिसत जानि जानि सग मै
[भातमा] 3 भतित्यालाइ भातको पति<या> दीनु भन्नया अडन पनि छेन अघिदेशि आ[जस]-
4 म्म कसैको भयाको पनि छेन ---१
5 १८ सालमा निजलाई भातको पतिया भयाको भया भताहालाई भात किन
6 यवाइन्३३ यवाइन्३४ तापनि गुरुप्रोहित राषि पतिया देयाउनु पन्याम हो
7 किन देयाउनु ---२
8 पतिया देयायकि भात यवायकि३५ भया पतिया देयन्या गुरुप्रोहित र
9 भात पतन्या भताहार्यालाई यवाउनु ---३
10 अघि यवाया३६ देयायकि को निजलाई भयाको पतिया ल्याउनु ---४

32 This has been added by a second hand.
33 For khvāinan.
34 For khvāina.
35 For khvāyāki.
36 For khvāyā.
A complaint made by Samsera Bahādura Pāḍe.

There is no provision in the Ain that allows for the expiation (patiyā) through the offering of cooked rice to an individual who accompanies and willingly partakes in a meal with someone who has fled after committing adultery with a non-widowed (sadhavā) wife of a fourth-generation cousin and a fourth-generation female cousin. Such a form of expiation has never been granted to anyone to date. ---1

If the expiation with respect to cooked rice was granted to her in [VS 19]18 [1861], why has she not fed cooked rice to someone of the same caste (bhatāhā) [since then]?41 She has not fed [any such person], but still she should have borne witness to the expiation by inviting a Brahmin priest (guru-purohita) [to accept cooked rice from her]. Why has she not borne witness to [it]? ---2

If she has borne witness to the expiation [or] fed cooked rice to someone of the same caste, let her bring forward [as corroborators] the

37 For pramāṅgī.
38 For phārakako.
39 The term ain here refers to the MA.
40 The complaint made by Samsera Bahādura in this document is confusing without knowledge of the other documents mentioned above, since he only sets forth the substance of his complaint without mentioning the accused's name.
41 Bhatāhā is a person with whom one can eat cooked rice without being contaminated (i.e., a fellow caste member; see T, s.v. bhatāhā).
witnessing Brahmin priest and fellow caste members who ate cooked rice offered by her. ---3

If there is no one whom she fed or bore witness to earlier, let her bring the expiation [certificate] (pātiyāpūṛjī) issued to her. ---4

If the official document (kāgaja, i.e., the certificate) of expiation has been lost, there should be a pūṛjī (an official short note) issued by the court ordering that she be granted expiation. Let her bring a true copy of it. ---5

If the expiation was undertaken by official order (hukumale), let her bring the official document of the pramāṅgi. ---6

No fellow-caste member who has eaten cooked rice [with her] has showed up until today, 16 years after the expiation took place. [Is it enough] to show a copy of the phāraka without showing the official document relating to the expiation? The matter is not recorded in the syāhā the way it is in the pūṛjī, nor is it recorded in the āvarje the way it is in the syāhā. [Furthermore,) it is not recorded in the [account book containing] total expenditures (jammā kharca) the way it is in āvarje, nor is it recorded in the phāraka the way it is in the [account book containing] total expenditures. Now, I cannot be satisfied only with a copy of what is written in the phāraka. ---7

If, irrespective of whether a fellow caste member has eaten cooked rice with her or not, you [still] give [me] an order to eat [cooked rice with her] without having made an inquiry into the [above-mentioned] evidence, I will, assuming all fellow caste members are present there and are ready to cooked eat rice with her, also be present. I have no complaint [in that case]. ---8

[VS 1934 (i.e., 1877)].

Rajākumārī Pāḍenī later did show the expiation certificate as demanded by Samsēra Bahādura (see Part II: C, Document 6). However, this certificate, while stating that she has undertaken the expiation, does not specify whether the expiation was granted in terms of cooked rice or only of water.

The term phāraka (phārkha) refers to a written receipt and acquittance, which serves as a deed of release from all demands. It can also be used as a deed of dissolution of partnership or parenership, or even as a bill of divorcement, as explained by Wilson (1855: 156 s.v. Fārīg).


According to H.H. Wilson (1855: 40 s.v. āvarja), this term denotes “a diary, a ledger, a rough note-book, an abstract account of receipts and disbursements.” This suggests that the term jammā kharca designates account books recording income and expenditures over a longer period of time, whereas āvarje may have been a list recording income on a daily basis.

Though the date of this document is not mentioned, it can be ascertained. The expiation of Rājakumārī Pāḍenī took place on Tuesday, 9th of dark fortnight of
Commentary:

The term *patiyā* has been translated as ‘expiation’, as synonymous with the Sanskrit term *prāyaścitta*. A. Höfer’s discussion of both terms is worth quoting. He writes:

[…] the MA speaks of *prāyaścitko patiyā*, i.e., the re-admission to the caste (*patiyā*) by way of absolution (*prāyaścitta*). It is remarkable that the MA accomplishes rehabilitation through a particular legal act […].

Thus, according to A. Höfer, *patiyā* specifically designates the reinstatement into one’s caste, whereas *prāyaścitta* is a way of absolution for that. A. Michaels, discussing the same terms writes:

So far I have used the term ‘rehabilitation’ (*patiyā*, *prāyaścitta*) as a blanket term denoting absolution, penance, expiation or purification as well as penalty. It is indeed difficult to draw any clear terminological borderline between *patiyā* and *prāyaścitta*. Quite often they seem to be used as synonymous.

Thus in the MA, although in Section forty (MA-ED2/89 § 40) the term *patiyā* was used, whereas in section forty-one (MA-ED2/89 § 41) *prāyaścitta* was preferred. Moreover, some important distinctions have to be done. In most cases, *patiyā* is the penalty through which one keeps or regains one’s caste status. In the MA however, *prāyaścitta* focused on the expiative aspects of rehabilitation, while *patiyā* was mostly used to denote the readmission to one’s commensal group after punishment and/or paying a fine.

In the MA itself, no obvious distinction is made in the use of these two terms; they seem to be freely interchangeable. *Patiyā* is possibly a *tadbhava/tajja*-word deriving from the Sanskrit term *prāyaścitta*. I may provide a few instances to demonstrate that both terms occur in the MA without any distinctive difference in meaning: 1. The randomness Mārga in VS 1918 (see the 2nd and 6th paragraphs of this document, NGMPP K 175/32 and NGMPP K 175/34) and Samsera Bahādura submitted his complaint 16 years after the expiation, that is, in VS 1934 (1877).

47 Höfer 2004: 162.
48 See Michaels 2005b: 35.
49 See MA-ED2/89 § 40.
50 Note: NBŚ gives Skt. *patita* as the etymology.
of their use as seeming alternatives of each other (i) Sections forty and forty-one of the Article 89.\textsuperscript{51} These sections deal with washing the feet of one’s daughter during the marriage ceremony. The Section forty allows, in particular, all Sacred Thread-wearers except for Brahmins to drink water while washing the feet of an unmarried daughter (kanyā chorīko) born to a wife from the same caste, whereas if the daughter is born to a wife of a caste, one may not accept cooked rice from, one is allowed to drink water only while washing the daughter’s hand. If water is drunk while washing the feet, a fine of two rupees is levied, and prāyaścitta calling for the payment of eight ānā is enjoined. Moreover, if water is drunk while washing the feet of a daughter who is born to a common woman whether from the same (Non-enslavable) caste as that of the father (a Sacred Thread-wearer) or from an Enslavable caste from which one may not accept water, the fine is five rupees and patiyā the payment of one rupees as a cow offering fee (godāna). Similarly, Article 41 allows the father, a brother, and other relatives to drink water while washing the hands of the bride and groom if the bride is born to an Upādhyāya Brahmin father and a remarried widowed mother from a Sacred Thread-wearer’s caste. If water is drunk while washing her feet, the fine is two rupees and prāyaścitta as well as a two ānā cow offering fee. Moreover, if water is drunk while washing the feet of a bride born from a common woman whether belonging to the (Non-enslavable) caste of a Sacred Thread-wearer or to an Enslavable caste etc. or a caste from which water cannot be accepted, the fine is five rupees and prāyaścitta as well as one rupee as a cow offering fee. As shown in this example, the terms patiyā and prāyaścitta are not confined to mutually distinct contexts; they are used as alternatives to each other. 2. patiyā, as noted by A. Höfer and A. Michaels, does not always necessarily imply readmission into one’s former caste (i) For instance, section twenty-four of Article 89 pertains to offenders who are not readmitted into their own caste even after receiving patiyā.\textsuperscript{52} The offender in this case is someone who has not committed any offence but has been shaved (muḍiyāko rahecha) and made to eat something taboo because of the anger caused to some authority. Such offenders are not granted patiyā with respect to cooked rice, only with respect to water. One should note here that a person cannot be readmitted into his caste if cooked rice cannot be accepted from him and that cooked rice cannot be accepted from an offender

\textsuperscript{51} See MA-ED2/89 §§40 and 41.
\textsuperscript{52} See MA-ED2/89 §24.
who has not received *patiyā* with respect to cooked rice. One may take water from him if he has received *patiyā* with respect to water, but that will not suffice for him to be readmitted into his caste. Thus, I again conclude, on the basis of above example, that *patiyā* is wholly synonymous with the term *prāyaścitta*. By undertaking *patiyā/prāyaścitta*, one merely removes one's pollution, but purifying oneself may not always be enough to regain one's previous caste status. 3. The fact that some terms are used interchangeably is a common feature of the MA. In sections one and six of the 65th Article of the MA, the terms *aṃśa-sarvasva* (lit. confiscation of an offender’s entire portion of property) and *sarvasva* (confiscation of an offender's entire property) are used interchangeably.

53 See MA-ED2/64 §§1–6.
Facsimile:

[1r]
Document 5 (K 175/32)

An unverified copy of a phāraka for an expiation fee paid by Rājakumāri Pādenī Kṣatryānī (VS 1918)

Edited and translated by Rajan Khatiwoda; dated VS 1918 (1861); National Archives, Kathmandu, Bhadrakālī; 16; Guthi Jamina Vivāda; Ka. Po. 15 Gu. Bam.; microfilmed as NGMPP K 175/32 on 04/06/1991; for the digital edition, see https://doi.org/10.11588/diglit.36932.

Abstract: This document is an unattested copy (see the verified copy K 175/33 below in Part II:C, Document 7) of a phāraka confirming receipt of two rupees as an expiation fee (bheṭī) paid by Rājakumāri Pādenī Kṣatryānī for having eaten cooked rice and having had sexual intercourse with her incestuous husband Prithi Bahādura Pāde.54

Edition:

[1r]

[श्री]

५ 655

४ 656

नकल् 657

1 सम्बन्धू १९१८ शाल मिति मार्ग वदि ९ रोज ३। आफना हाव्यि मा पुस्ताककरिक।
2 दिढि पन्ने कालुसंग कर्नीमा बिशेकः आफना विवाहिता लोग्यामा दिइ-।
3 धि बाहादुर पाडे कश्वलु रोटियाँ गरि नीजका हातको भात पानी।
4 याई करणि स्मेतः सम्यंग भया वापस तरिदै टोलु लिहा राजकोराँि।
5 पसेदी कीका जिज्ञासा १ सुदूरको प्रायम्यविचको मेटी पैसा २ ---२

55 This has been crossed out.
56 This has been crossed out.
57 This has been written in the middle left-hand margin of the document.
Tuesday, the 9th of the bright fortnight of Mārga in the [Vikrama] era year 1918 (1861)

[This is a receipt for payment of] a Rs. 2 as an expiation (prāyaścitta) fee in atonement for bodily pollution [incurred] by Rājakumārī Pādenī Kṣatryānī, a resident of Naradevī Tola by reason of having met her own ritually married husband, Pṛthi Bahādura Pāde who is guilty of committing adultery with his 4th-generation female cousin Kālu, of having received cooked rice and water from his hand and even of having engaged in sexual intercourse with him.

Commentary:

The document does not specify whether the expiation fee restored purity in terms of only water or of both water and cooked rice. Thus, it remains unclear whether Rajakumārī was readmitted into her caste or not.

The document mentions that Pṛthi Bahādura committed adultery with a 4th-generation female cousin but is silent about a similar act, referred to in other documents, with a non-widowed sister-in-law. This may have been passed over here because it was not considered a crime in the MA, whose section seven, dealing with adultery committed by Sacred Thread-wearer Kṣatriyas, states that such persons are not liable to punishment for adultery committed with a non-widowed sister-in-law if they are pardoned by the woman's husband. One can speculate, then, that Pṛthi Bahādura may have been so pardoned. Given, however, that this second instance of adultery is mentioned in documents 22 years later than the present ones suggests another possibility: that this accusation was first levelled in the intervening period.

58 See K NGMPP 175/18 for the discussion of this term.
59 See NGMPP K 175/18 and NGMPP K 172/58.
60 See MA-ED2/116 §7.
Facsimile:

[Ir]
Document 6 (K 175/34)

A copy of *patiyā-pūrjī* issued to Rājakumārī Pādenī Kṣatryānī (VS 1918)

Edited and translated by Rajan Khatiwoda; dated VS 1918 (1861); National Archives, Kathmandu, Bhadrakālī; 18; Guthi Jamina Vivāda; Ka. Po. 15 Gu. Bam.; microfilmed as NGMPP K 175/34 on 04/06/1991; for the digital edition, see https://doi.org/10.11588/diglit.36934.

Abstract: This document, most likely issued by a *dhamādhikārin* or *dharmādhikāra*, serves as a certification of the completion of the required expiation by Rājakumārī Pādenī. The expiation was performed for her involvement in sexual intercourse with her incestuous husband, Prthi Bahādura, as well as for sharing cooked rice and water with him.

Edition:

[1r]

[ढी] ४१ ६१

Translation:

Śrī

41

61 The number was added by a second hand.
On Tuesday, the 9th of the dark fortnight of Mārga in the [Vikrama] era year 1918 (1861).

[This is to certify that] the body (lit. 1 body) of Rājakumārī Pādenī Kṣatryānī, a resident of Naradevī Tola, [has been] purified. [She had been polluted] by reason of having met her own ritually married husband, Pṛthi Bahādura Pāde who is guilty of committing adultery with his 4th-generation female cousin Kālu, of having received rice and water from his hand and even of having engaged in sexual intercourse with him. ---2.

Commentary:

Although the document itself does not reveal who issued it, one can argue on the basis of the customary practices of the time that it must have been some dharmādhikārin.63

The pūrjī does not specify whether Rājakumārī has been granted expiation in terms of cooked rice or water. Thus, her caste status after the expiation remains unclear.

Broadly speaking, the Hindu legal tradition offers two types of punishments; religious and secular. Penance (prāyaścitta/patiyā) is a form of religious punishment, whilst penalty or fine (daṇḍa) is secular which includes such as, capital punishment, confiscation of property or fine etc.64 Nevertheless, the Classical Hindu law focuses more on moral consequences of criminals rather than their objective motives. For example, it is stated in Manu that one can very quickly eliminate sins by penance.65 Similarly, the MA also offers mentioned two schemes of punishments, secular (for non-religious affairs such as, on homicide or theft) and religious (for religious affairs such as, drinking alcohol or funerary rites). The concept of penance incorporated in the MA has a certain influence of the classical sources of Hindu law. Fasting, visiting a pilgrimage place, repetition of Mantras, cow offering ritual (godāna) etc. are the forms of penances incorporated in the MA. To

---2

62 This number probably denotes the expiation fee paid by Rājakumārī (cf. K 175/32, document 5 above and K 175/33, document 7 below).

63 See Michaels 2005b: 39 and NGMPP K 175/18 (document 4 above).

64 See Kane 1953: 8–86 for the concept of prāyaścitta (penance) and daṇḍa (penalty).

65 yatikmcičid enah kuvanty manovāṁmūrtibhir janāh. tat sarvāṃ nirdahanty āśu tapasaiva tapodhanāḥ (whatever transgressions individuals commit through their mind, speech, or actions, through the austere practices as their sole treasure, they swiftly expiate all of them by virtue of their ascetic endeavors. MDh 11.242).
remain in a state of impurity was a serious social and moral issue in the pre-modern Nepal. One has to remove impurity as soon as possible either by undertaking penance if impurity emerged accidentally or his caste status has to be degraded if impurity emerged from willingly carried out action, so that he will not be able to make another person impure. For example, the MA forbids all Sacred Thread-wearer caste groups to consume alcohol. If anyone belonging to a Sacred Thread-wearer caste group knowingly drinks alcohol, his Sacred-Thread should be removed and his caste status should be degraded into that of a Non-enslavable Alcohol-drinker. 66 No expiation can help to remove the offender's pollution which emerged out of knowingly drinking alcohol. If such pollution emerges out of accidental actions, the MA offers expiation to get rid of it. 67

Facsimile:

[1r]

66 MA-ED2 87 §12.
67 *arkākā gharabhitra jāta jānyā kuro ra naṣānyā abhakṣa laigī kasaile rāṣeche gharakā mānīsale thāhā napāi bhoramā sāvāchan bhanyā jāta jānyā kuro ghar-abhitra rāṣanyālāi 10 rāpayā danḍa garnu. thāhā napāi bhoramā sānyālāi patiyā garādinu* (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 a substance or food] unknowingly or by deception shall be granted expiation. (MA-ED2 87/ §22).
Document 7 (K 175/33)

A verified copy of a *phāraka* for an expiation fee paid by Rājakumārī Pādenī Kṣatryānī (VS 1918)

Edited and translated by Rajan Khatiwoda; dated VS 1918 (1861); National Archives, Kathmandu, Bhadrakālī; 17; Guthi Jamina Vivāda; Ka. Po. 15 Gu. Bam.; microfilmed as NGMPP K 175/33 on 04/06/1991; for the digital edition, see https://doi.org/10.11588/diglit.36933.

Abstract: This document is a verified copy of a *phāraka*\(^{68}\) confirming receipt of two rupees as an expiation fee (*bheṭī*) paid by Rājakumārī Pādenī Kṣatryānī in atonement for having eaten cooked rice and having had sexual intercourse with her incestuous husband Pṛthi Bahādura Pāde.\(^{69}\)

Edition:

\(^{1r}\)

\(^{2}\)

\(^{3}\)

\(^{4}\)

\(^{5}\)

\(^{6}\)

\(^{7}\)

1 सही [---] १८ सालमा कारिणालाई भ्याका फारपाका
2 (स)क्ल्वमोस्जम ्यो नझल दुर्स्त छ भनि
3 सहीछाप गन्यी राइटर सिडिलाल----\(^{72}\)

1 १९१८ साल मार्गी बढी ९ रोज ३
2 आफना हार्डमा ४ पुस्तकी दीदी पन्या कालुसंग कर्णिका विग्राहा-
3 का आफना विज्ञाहिता लोगन्या पृथ्वी बाहादुर पाडे क्षरीसंग
4 भेटफाट गरी निजका हातको भात पानि थाई करणि स्मेत छ
5 सर्गभया बाप्तु नरेद्रि टोल वर्या जाकुमारी पडेनी क्ष-
6 त्रेनिको जीय १ शुद्धकै प्रावधिको सेटकी पै रू ----२

\(^{68}\) See the unverified copy in NGMPP K 175/32 (Document 5 above).
\(^{69}\) See NGMPP K 175/18 (document 4 above) and NGMPP K 172/58.
\(^{70}\) This has been crossed out.
\(^{71}\) This has been crossed out.
\(^{72}\) This section of the text has been recorded in the left-hand margin of the document.
Translation:

Śrī

55

47

Signature: This has been signed and stamped by Writer (rāṭara) Siddhilāla [in verification of the fact that] “this copy is true to the original phāraka submitted to a government clerk (kārimdā)\(^73\) in the [Vikrama] era year [19]18 [1861].”

[Date]: On Tuesday, the 9\(^{th}\) of the dark fortnight of Mārga in the [Vikrama] era year 1918

[This is a receipt of] the fee of 2 rupees in order to undertake expiation for the purification of the body (lit. 1 body) of Rājakumārī Pāḍenī Kṣatryānī, inhabitant of Naradevī Ṭola [who has been polluted] by having sexual intercourse with her own ritually married husband, Pṛthi Bahādura Pāḍe who is guilty of committing adultery with his 4\(^{th}\)-generation female cousin called Kālu, by meeting him and by receiving cooked rice and water from his hand.

Commentary:

See the ‘Commentary’ of K 175/32 (document 5) above.

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\(^73\) The final paragraph indicates that the original copies of such documents were kept by the government for its own records.
Document 8 (K 172/63)

A letter granting water-expiation to nine members of Prthi Bahādura Pāḍe’s family (VS 1928)

Edited and translated by Rajan Khatiwoda; dated VS 1928 (1871); National Archives, Kathmandu, Bhadrakālī; 7; Jāta Vivāda; Ka. Po. 15 Gu. Bam.; microfilmed as NGMPP K 172/63 on 14/05/1991; for the digital edition, see https://nepalica.hadw-bw.de/nepal/editions/show/10865.

Abstract: The first part of the letter, probably issued by a dharmādhikārin, explains the ritual procedures for undertaking expiation. The ritual procedure has been specifically prescribed for nine members (including servants) of the family headed by Prthi Bahādura Pāḍe, who was guilty of committing adultery. They nine became polluted through having afterwards met their incestuous husband, father or master, and then having eaten cooked rice together with him. The second part of the letter certifies the water-expiation granted to them, although it explicitly mentions that they are still excluded from eating cooked rice together with fellow caste members. One Kaptāna Khadga Simha Bhadārī Kṣatrī had submitted a petition to the prime minister to allow water-expiation to be granted to the remaining family members of Prthi Bahādura in view of the first wife of Prthi Bahādura, Rājakumārī, having already been granted such expiation. The prime minister responded to this petition by issuing an executive order to the court Itācapalī that water-expiation shall be granted in the same way as it had been to Rājakumārī before.

Edition:

[ir]

[श्री]
The verse has been faithfully transcribed as it appears in the document without correcting it in accordance with the standard Sanskrit grammar. Further, it has been edited and translated in Michaels 2005b: 42, where it occurs at the beginning of a patiyā-pūrjī.

For vāhekāi.
Translation:

Śrī

By order of the venerable king of Gorkhā, perform prāyaścitta, in accordance with the smṛtis, as a remedy that removes evil.

Śrī 3 Mahārāja (i.e., Prime Minister and Commander-in-Chief Jaṅga Bahādura) ---1

On the first day, Nara Bahādura and Kṛṣṇa Vīra should shave [their] heads and [along with] the other persons [mentioned below] should cut their nails, should anoint their bodies with sesamum husks (tilakalka), [sacred] ash and pañcagavya and take a bath. On the same day, during the day-time, they should eat 15 mouthfuls of sacrificial food. On the second day, during the night-time, they should eat 12 mouthfuls. On the third day, they should eat if somebody offers [food] without their having asked [for any]. On the fourth day, they should fast (nirāhāra). [They should pass] twelve days repeating [the same procedure] three

80 For muṣenī.
81 Nara Bahādura was a son of Prīthi Bahādura, while Kṛṣṇa Vīra was one of his servants (see under ‘Detail’ of the document).
82 Because Nara Bahādura and Kṛṣṇa Vīra are male they have to shave their heads as well as cut their nails, whereas the remaining persons are female and consequently are only required to do the latter.
83 Pañcagavya is prepared from the following five cow products: milk, curd, ghee, urine and dung.
On the thirteenth day, they should eat the *pañcagavya* and offer *dakṣinā* [together with other] uncooked ritual offerings to a Brahmin.

Kaptāna Khadga Simha Bhadārī Kṣatrī submitted [the following] petition to ---1--- (i.e., the prime minister) which states: “Regarding the case of adultery committed by Pṛthi Bahādura Pāđe, a resident of Naradevī Tola of the Kathmandu city, with the [non-widowed] wife of a 4th/5th-generation cousin and with a 4th/5th-generation female cousin in the [Vikrama] year [19]15 [1858], Jeṭhī Mukhenī (i.e., Rājakumārī Pādenī) and the persons listed in the details [below] were polluted through eating cooked rice with him after they had fled to the Terai with him. [Given that] Jeṭhī Mukhenī had been granted expiation by the order given, the other similarly [polluted] people who are listed in the details [below] should also be granted similar expiation.”

[Concerning this matter], on Friday, the 2nd of the bright fortnight of Vaiśākha in the [Vikrama] year [19]28 [1871], stamped official note (*chāpa lāgīāyāko pūrjī*) has arrived, stating: “The order given to the Itācapalī court to grant water-expiation to the other members of Pṛthi Bahādura Pāđe’s family listed in the details below is right given that his Jeṭhī Mukhenī granted expiation.”

In accordance with this note, the nine people [listed] in the details below [have been granted] water-expiation.

**Details**

Māhīlī Mukhenī Harakumārī of [Pṛthi Bahādura] Pāđe----1
His 4 years old son Nara Bahādura ---1
Lyāitā (concubine) Mukhenī Harililā of [Pṛthi Bahādura] Pāđe ---1
His 5 years old daughter Trivikrama Devī ---1
[The female] Brahmin cook Lakṣmī Devī ---1

**Servants**

The slave girl Dharmaśīlā ---1
The slave boy Kṛṣṇa Vīra ---1

---

84 The four days of penance referred to may be the *pādakṛcchra* which when repeated three times becomes the *prājāpatyakṛcchra* (see YDh. 3.318–19).
85 Sacrificial fee or wage paid to the priest at the end of a ritual.
86 A *mukhenī/mukhinī* is the wife of a holder of the post *mukhiyā*. It is also simply an honorific word for addressing to the wives of Kṣatriyas (see NBŚ: s.v. *mukhinī/mukhenī*).
87 NGMPP K 175/32 and 34.
88 She is the second of Pṛthi Bahādura’s three wives; the first and second, Rājakumārī and Harakumārī were lawfully wedded spouses while the third Haralilā was a concubine.
The slave girl Mohanakumārī ---1
The slave girl Indrakumārī ---1
Saturday, the 3rd day of the dark fortnight of Vaiśākha in the [Vikrama] era year 1928 [1871].

Commentary:

Despite the fact that there is no mention of who drew up the document, it can be argued on the basis of the following points that the document was issued by a dharmādhikārin to the petitioners as an official certificate. 1. It is explicitly mentioned in the MA that only dharmādhikārins are entitled to perform the rite of expiation, once they receive an official written note (pūrjī) from the courts or an attested written order (pramāṅgī) from proper authorities.\(^89\) 2. We see that the first part of the letter spells out the ritual procedures to be undertaken by the family members polluted through association with Pṛthi Bahādura. The MA is silent on such procedures, and a dharmādhikārin would have been the most likely authority competent to prescribe them. According to smṛti texts, for instance MDh,\(^90\) three Brahmins who are learned in the Vedas are allowed to prescribe penances.

---1

\(^{89}\) See MA-ED2/89/ §§ 2–8.

\(^{90}\) See MDh 11.84–86.
Facsimile:

[1r-part1]
Document 9 (K 172/57)

A deposition submitted by Samsera Bahādura Pāḍe to the Koṭiliṅga court (VS 1942)

Edited and translated by Rajan Khatiwoda; VS 1942 (1886); National Archives, Kathmandu, Bhadrakālī; Bhadrakālī; 1; Jāta Vivāda; Ka. Po. 15 Gu. Bam.; microfilmed as NGMPP K 172/57 on 14/05/1991; for the digital edition, see https://doi.org/10.11588/diglit.36931.

Abstract
This is the deposition made by Samsera Bahādura Pāḍe before the Koṭiliṅga-court that he is able to prove that Rājakumārī Pãḍenī—who is guilty of having sexual intercourse and eating cooked rice with her incestuous husband—had not yet been granted rice-expiation (bhātako patiyā).

Edition:

[1r]

श्रीकोिरीमङ्ग

(७६)

सहि २

लिपितम तरदेवी टोल कह्ये सम्सेर बहादूर पाढे क्षेत्री आये मेरा (ठास्ता) का बाबा पिनी बहादूर पाढे छेत्रीले [१५ सा]

ल्मा चार पुस्ताका दीदी नाता पन्नॆ कालु छेत्रानीको र भाउजू सध्वा सोढी चार पुस्ताका नाता पन्नेरी स्मेतु छ-

नी गरि भागी जादा नीजको बीवाहिता राजकुमारी पडेनी आफ्ना लोगन्त्या भागी ग्याको ठाउमा गै जानी जा-

नी कर्नी भात पानीमा भजी आयाकी टुनाले नीज राजकुमारीलाई भातमा बाहेक पानीको मात्र पतिया

हुंदा भातमा नचली बाहेक भै कस्ताको र भतहाले पनी भात नपाइ बाहेक गरी राज्याको हो। मातको पति-

91 This has been crossed out.
92 This has been written just before the beginning of the first line of the main text, in the left-hand margin.
6 याभएको र भएकाले पनि भएका ली चरि चलाई आएको स्मेत छै। साचो हो।

लेपीयाको बेहोरा भएको

7 प्रमान साधी भयात्ता तपस्सलमा लेपी दीयाको पडा छ। लेपीको बेहोरामा नीज

राजकुमारी पडनीलाई म राखेको छ।

8 ल गरीला। काऐए गर्न नमीन र भएको बेहोरा दबाई नभएको झटका झुठा बेहोरा

लेपी दीयाको झटका भन्ने छ।

9 ऐनतमोजिमु हुसाँला भन्ने मेरा मनोमान गुम्रारकीसंग धारी मुखुल्का लेपी

अदालत --- १ भएका चहाँभुरू।

तपस्सल

लेफटे जगत वहाैदूर पाडे छेत्री ---१ अरू भएको कागजौङ् पत्र गैिि स्वै ऐस क-

कसान सम्स्त वहाैदूर पाडे छेत्री ---१ चहरीमा पडे छ ---१

कसान वल वहाैदूर ---पैिि ---१

सीव धोज ---पैिि ---१

कनातल दोजत झुङ्ग ---पैिि ---१

सुवेदार बेनी झुङ्ग ---पैिि ---१

कनात झुङ्ग पाडे छेत्री ---पैिि ---१

नाङ्ग नजानेको सीव बीर पाडेको नाती ---१

सुवेदार प्रताप वहाैदूर पाडे ---१

सुवेदार लेज वहाैदूर पाडे छेत्री ---१

कनातल भौष पाठ भर्जन ---पैिि ---१

सुवेदार तर झुङ्ग पाडे छेत्री ---१

सुवेदार नर झुङ्ग चेत्री ---१

ईनसाईन जुद्वित्र बिन्नमु ऐं ---१

ईस्तिन सम्बान् १९४२ साल मीति फागुण सुदि ९ रोज १ शुभमु ---१

Translation:

Venerable Koṭīliṅga ---1

76

Signature

Written by Samsera Bahādura Pāde living at Naradēvī Ṭola [of Asana].

Āge: In the year [VS 19]15 [1858], when my fourth uncle (thaĩlā bābā) Pṛthi Bahādura Pāde Kṣatrī—after having committed adulteries
with his fourth-generation cousin sister Kālu Kṣatryānī and fourth generation non-widowed sister-in-law—had ran away, his married wife Rājakumārī Pādenī went to the place where her husband had fled, and she consciously had illicit sexual relationship with him and ate cooked rice and [drank] water with him. For that reason, she has been prevented from having cooked rice with the fellow caste members (bhatāhā), because she was only granted water-expiation, and she has not been accepted in having cooked rice with them. It is true that she has not been granted the expiation with respect to rice and not been allowed to eat together with the fellow caste members. The witnesses, containing the fellow caste members mentioned in the details below, are present as the evidence for what has been written. I will make Rājakumārī Pādenī confess regarding what has been written. If I am unable to make [her] confess, and if it will be proven that I have written a false accusation by lying and hiding the truth, I will pay [the fine] in accordance with the Ain. With this statement, I have willingly submitted this litigation-muculkā to the Court Koṭīlinā.

The Details
Lieutenant (lephṭena) Jagata Bahādura Pāde Chetrī ---1
Captain (kaptāna) Samsera Bahādura Pāde Chetrī ---1
Captain (kaptāna) Bhaktakeśara Pāde Kṣatrī ---1
Captain (kaptāna) Bala Bahādura Pāde Chetrī ---1
Sīvadhoja ---1
Colonel (karnaila) Vījaya Jaṅga ---1
Suvedāra Veṇījaṅga ---1
Cakra Jaṅga Pāde Chetrī ---1
The grandchild of Sīṃhavīira Pāde whose name is unidentified ---1
Suvedāra Pratāpa Bahādura Pāde ---1
Suvedāra Teja Bahādura Pāde Chetrī ---1
Lieutenant (lephṭena) Bhupa Bhaṃjango ---1
Lieutenant (*lephtena*) Kula Bhaṃjana ---1
Captain (*kaptāna*) Nara Jaṅga
Pāde Chetṛī ---1
Suvedāra Nara Vikrama ---1
Īnasāīna Juddha Vikram ---1

On Sunday, the 9th day of the bright fortnight of Phālguna in the [Vikrama] era year 1942 [1886]. May there be auspicious.

Commentary:

Samsera Bahādura is not convinced by the evidences presented by Rājakumārī. Because of the fact that the evidences presented by Rājakumārī only mention that her body has been purified but do not specify whether she had granted both expiations, of water and rice or of only water. Thus, he submits a testimony of the eyewitness against Rājakumārī to the court that she has not yet been granted expiation of rice thus; she is not readmitted into the caste.

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93 Řājakumārī has presented *patiyāpūrjī* as evidences of rice-expiation (see NGMPP K 175/33, 34 above and NGMPP K 175/35 in http://abhilekha.adw.uni-heidelberg.de/nepal/index.php/catitems/viewitem/9437/1 last accessed on 05 June 2023).
Facsimile:

[1r]
Document 10 (K 175/2)

A jabānabandī submitted to the Adālata Bandobasta Aḍḍā by Samsera Bahādura Pāḍe (VS 1934)

Edited and translated by Rajan Khatiwoda; VS 1934 (1878); National Archives, Kathmandu, Bhadrakālī; 1; Nārāyaṇī Guṭhī; Ka. Po. 15 Gu. Bam.; microfilmed as NGMPP K 175/2 on 02/06/1991; for the digital edition, see https://nepalica.hadw-bw.de/nepal/editions/show/24220.

Abstract: This document is a jabānabandī submitted by Samsera Bahādura Pāḍe to the Adālata Bandobasta Aḍḍā. It mentions that since he was arrested and his property confiscated, the petitioner is unable to cause the defendant, Rājakumārī Pãḍenī Kṣatryānī, to be taken to the court and make her confess as stated by him in the complaint note submitted to the court.\footnote{See NGMPP K 175/18.}

Edition:

[1r]

श्री

श्री ३ महाराज

१

श्री कोटिल(इंग) नििेस््व िोल वस््या सम्सेिा पाडे क्ेत्ररी । आगे मेिा ठास्ि-

ला बावा पृथि बहादुर पाइ पेढे के लैजाइ हाडनातामा ४ पुस्ताकङ्क दिदि-

का कर्णको बाबा लामी १६ साैदेरी मथ्यैसतरभ भागी सयापछि

नीजकु ज्वेकी मुच्चनी रजकुमारीलाई आफ्ना विवाहिता लोग्न्या पृ-

\footnote{This has been written just before the beginning of the first line of the main text, in the left-hand margin.}
विष बहादुर पाद्रे क्षेत्रीसम्ग भेटपाट्टी गरी तीजका हातको भाट पा-
नी पाईर धरण मेट स्वर्ग भया बान्त जिय १ सुद्र भन्यावे भोरको
१८ सालमा पतिया भायाको ठाकुरमाले मेट २६ सालमा बाञ्च��तिल
---२---का हुकुमबरोध नीज ताहिली आमा राखुमालीले र मे-
र आमा रत्नबरोधिले आधि आधि अंस गरी पाउनआयाकिन रहिउ.
हामा नारायणी भन्यास्मेतु ज्ञा ६ गुढी नीज ताहिली आमले मात
बचनु गरिआयाकिन हुनाले नीजले भाट चलनु गरी पान र हाक्षो बज-
क्या भायाको हुकु मट ब्वेलिंगि चलनु गरी नीजले पाउन्या होडन भें-
न्या स्मेतुको ३५ सालमा नीज मेरी आमालु बदलाकी ---३---
मा बाबाढ इजहार दियाणी हउटाहुनिमा मरी र लो गुढी तैले बजा-
उत्त भनी वेदिंदितका हुनाले भले वियाको स्मेत मैले बनाई चलनु
गर्याइकै एंबंडा हुकु मट इजहार पान रत्नबरोधिले मात्र पाउन्या होड-
न भन्या स्मेतुको नीज ताहिली आमले प्रतिवेदि दिसो मनमा-
लमा स्मेतु हामिलाट प्रकाउ गर्दा हाइनातामा करण गर्यामा जात प-
तित मे सुद्र नरहामा याखा आप्ना लोभ्यामाको सर देहाइ थाहा पा-
ई जाणी जाणी सर लागी भाट पानीमा भन्ड आयाकिन पानीको मात्र-
पतिया पाण्ड भनी जात भाट बाहेर भायाढी कौनै देहाइले पनी अं-
स न्दा इजहार स्मेतुको मुद्दा स्मेति्का नले ---४---का हुकु मट
वितिंपत्र बढाउदा र नीजलाई भयाका पतिया माधि लेपियाको फारकोको नकल स्मेंटू
बुढि यसुङ जुदा माषी भायाको दोहे भयाको देहाइले न्दा अर्थ सारो भन
भनी मसग सीढा मेरी चित्र बुढा लगै। नीज ताहिली आमले सोबुढङ(गन)
चलाइ हुकु मट इजहार खार्यामुङ छुन भनी पतिनु भन्या देहाइले मात-
बन लेपियाको मुद्या उठाइ वितिंपत्र मात्र चढाइएको हु। अदालतमा
तोकाइ लगी र सो वितिंपत्रबमोजिम इजहार मुखुल्का दी नीज जे-
ढे आमालाई काउरे गर्न सकिन्छ। लेपियाका देहाइको मेल
ले वितिंपत्र चढाइएका मुखुल्का दी रहान किसाफले जो दहाई
म सामेल छुन भनी मेराम मनोभाग पुसिपराजिम ज्ञानबंधी लेपी अ-
दालु देख्नस्त्रामा चढाइए। इति सम्ब्रि १९३४ साल मितिश्रृंच
सुदृ १३ रोज २ शुभम् ---

Translation:

Thrice-venerable Mahārāja ---1

Venerable Koṭiliṅga ---2

[Seal]
Signature

[The following] has been written by Samsera Bahādura Pāḍe Kṣatrī, resident in Naradevī Ṭola. After my fifth paternal uncle Prithi Bahādura Pāḍe, accused of committing adultery with a 4th-generation female blood cousin, fled to Madhesa in [VS 19]16, expiation was granted to his eldest wife, Rājakumārī, in [VS 19]18, the details [of which are as follows]: “The body (lit. 1 body) [of Rājakumārī] has been purified. [She had been polluted] by reason of having met her own ritually married husband, Prithi Bahādura Pāḍe Kṣatrī, of having received cooked rice and water from his hand and even of having engaged in sexual intercourse with him.” For that reason, by order of ---1--- (i.e., Thrice Venerable Mahārāja), Thāpāthalī, in [19]26, my fifth paternal aunt Rājakumārī and my mother Ratnakumārī, as it turned out, partitioned the [family] property, with each receiving half.

Since my fifth paternal aunt alone had been enjoying our 6 gūṭhīs, including the one called Nārāyaṇī, my mother filed a lawsuit in [19]31 as a litigant [against] her at the ---2--- (i.e., venerable Koṭīliṅga) court, stating: “She [Rājakumārī] is not entitled to enjoy [the gūṭhīs] on her own, and [she also] should not be allowed to enjoy our part of the partitioned treasury by force.” Afterwards, when [the lawsuit] was forwarded to the Iṭācapalī, Rājakumārī, [my] fifth paternal aunt, filed a defence appeal, stating: “Given that [Ratnakumārī] gave [me] a written statement as follows: ‘You shall run the guṭhī’”, I have enjoyed it, reconstructing what was in disrepair. Ratnakumārī is not entitled to enjoy the unpartitioned treasury on her own.”

Thereafter this property [was confiscated] and we were arrested. Then I submitted a petition to ---1--- (i.e., Thrice Venerable Mahārāja) against my fifth paternal aunt together with the following lawsuit: “[A woman]—one who has willingly eaten cooked rice and received water from [her husband] even after knowing that he has lost his caste status down to the equivalent of a Śūdra as punishment for committing adultery with a blood relation—should not under any circumstances get her share of property on the grounds that she has been granted water expiation, while still excluded from having cooked rice with fellow caste members. She should not get her share of property just by inveigling and lying. According to my inquiry, she is still excluded from having cooked rice together with fellow caste members.”

When I was asked about my inquiry into the copy of the phāraka mentioned above regarding the expiation and told to relate truthfully,
without lying, the details of what had happened during that lawsuit, I readily consented.

I have submitted this petition with regard only to the lawsuit whereby my fifth paternal aunt caused us to be arrested [on the basis of the accusation] that my mother had been running all the gūṭhīs and had been enjoying the treasury by force. I am unable to convince my first paternal aunt to appear in court with the established facts, nor can I give testimony or make her confess, as mentioned in the petition [submitted to you earlier].

I have willingly submitted this jabānabandi to the Adālata Bando-basta Addā. I shall accept the decision, made in accordance with the Ain and your judgement, regarding the petition and lawsuit I initiated, the details of which are written [above].

Monday, the 13th day of the bright fortnight of Caitra in the [Vikrama] era year 1934 [1878].
**Document 11 (DNA 15/91)**

A *rukākā* from the king granting Prime Minister Jaṅga Bahādura Kūvara allowances previously enjoyed by Bhīmasena Thāpā (VS 1903)

Edited and translated by Rajan Khatiwoda; VS 1903 (1846); National Archives, Kathmandu, Ms. no. 628; microfilmed as NGMPP DNA 15/91 on 24/07/2000; for the digital edition, see https://nepalica.hadw-bw.de/nepal/editions/show/2170.

**Abstract:** This royal decree grants Prime Minister Jaṅga Bahādura Rāṇā the same privileges and benefits that were previously enjoyed by General Bhīmasena Thāpā, including the reception of traditionally sent gifts from Koṭa Bhaḍāra and other places on occasions such as Dasain and Phāgu.

**Edition:**

[1r]

1 श्रीदुर्गाच्छूः

[Royal seal]

1 स्वस्ति श्रीमण्ड्राजाधिराजक्र्ष्ण रुक्षः ---
2 आमे प्राइम्स्टर बान कम्पांटर इन चिप्स जनरल जहाँ बहादुर कुंबरके।
3 अधि जनरल भिमसेन थापाले दर्वारिवाट दामाको तोसायाना कोट महाराजादि कपडा लता दसै फागुका मामुली दैङम्स्तुर गैह रबैं बहाल गरिबकस्तु। आफ्ना पातिरामा-
4 कसि हामा निमक्सो सोहोर चिताड जनरल भीमसेन थापाले पाइ पाइ?
5 आयांबमोजिम तोसायाना कोट भडार जगा जगाराव्त घाथ्या पिन्था मराजा-
6 म कपडा लता दसै फायुका मामुली दैङम्स्तुर गैह रबैं वेला वेलामा ली भो-
7 रक गर। इति सम्बत्तात्तु तान साल मिती मार्ग वर्त ५ रोज। शुभम् ---

Translation:

Venerable Durgā!

[Royal seal]
Hail! This is a rukkā from the glorious supreme king of great kings.96

Āge: To Prime Minister and Commander-in-Chief General Jaṅga Bahādura Kūvara.

We have assigned [to you] everything that was previously received from [our] court (darabāra) by General Bhīmasena Thāpā and went through the [Kausī] Tosākhānā, Koṭa Bhaṇḍāra and other places, [including] food and drink, dress, usual obligations (māmulī) and customary fees (daidastura) [delivered by the subjects] during the Dasaĩ and Phāgu festivals. Being loyal to our salt and mindful of your duty, enjoy everything, [including] food and drink, dress, usual obligations and customary fees [delivered by subjects] on Dasaĩ and Phāgu that were enjoyed (lit. eaten and received) by General Bhīmasena Thāpā, collecting them from time to time from the Tosākhānā, Koṭa Bhaṇḍāra and other such places.

Sunday, the 5th day of the dark fortnight of Mārga in the [Vikrama] era year 1903 (8 November 1846). Auspiciousness.

Commentary:

By this executive order Jaṅga Bahādura is granted privileges previously enjoyed by Bhīmasena Thāpā, and that, strangely enough, more than seven years after the latter’s death in 1839 (on Bhīmasena’s end, see Acharya 1971: 15; Adhikari 1984: 22). This series of entitlements were steps along the way to Jaṅga Bahādura’s empowerment after the Koṭa Massacre on 14 September 1846. In a multi-step process, rights

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96 The title mahārājadhirāja could here refer to either the technically still reigning King Rājendra or to his son and technically still crown prince Suren-dra. Already in August 1842, Rājendra had ordered that his son Suren-dra be addressed with the title mahārājadhirāja (Pandey 1973: 51, Whelpton 1991: 110). In November 1844 (1st of the bright fortnight of Mārga VS 1901), Rājendra issued a document officially conferring the title on his son and empowering him to “conduct the affairs of the administration” (tr. by Acharya 1971: 21). Did this empowerment include the right to issue rukkās as mahārājadhirāja? In 1846 (VS 1903) after the Koṭa Massacre on 14 September, King Rājendra officially announced his intention to go on a pilgrimage (Pandey 1973: 50 n. 1), and in a lālamohara issued on the 10th of the bright fortnight of the month of Kārttika, he authorized Suren-dra to ascend the throne “in case, while on pilgrimage, he would be made captive by the British government or in case he would not come back even at his fortieth year of age” (ibid.: 50). On the same day the present document was issued, Suren-dra was appointed prince regent in the absence of the king (ibid: 51 n. 5). Whelpton (1991: 170 n. 96) refers to a lālamohara that was issued on the 12th of the dark fortnight of the month of Mārga (13 November 1846) still in Rājendra’s name. Rājendra left Kathmandu for Benares on 23 November 1846 (Whelpton 1991: 166). Only on 12 May 1847 was Suren-dra officially crowned king of Nepal (ibid.: 173).
and titles were transferred to Jaṅga Bahādura Kūvara, while the reigning Śāha king Rājendra and his heir Surendra were deprived of their power to govern the country. Another lālamohara issued on the same day, appointed Surendra prince regent (Pandey 1973: 50; cf. n. 1).

Facsimile:

[1r]
Document 12 (R-Ain, A 1375/5)

A lālamohara issued by King Pṛthvī Viśrāma allowing Prime Minister Viśrā Samsera to expand and amend the existing laws, particularly promulgated in VS 1936 (1879) by then Prime Minister Raṇoddīpa Siṃha (VS 1942)

Edited and translated by Rajan Khatiwoda; VS 1942 (1885); National Archives, Kathmandu, Ms. no. 6.1599; microfilmed as NGMPP A 1375/5 on 13/07/1989.

Abstract: This lālamohara encompasses a directive aimed at improving and updating the existing criminal and civil laws that were initially instituted in 1879 (VS 1936) by the former prime minister. The laws established in 1879 not only offered precise definitions for criminal and civil cases but also delineated the duties and jurisdiction of specific government offices and their officials. Additionally, they provided invaluable guidelines for composing various legal documents, including crucial sample templates that were absent in the Ain of 1854 and its subsequent amendments.

Edition:

[p. 2v]

श्री दुर्गाज्ञू

Royal seal of King Pṛthvī Viśrāma with the legend: श्रीनार्स््य स््वस्स्ति श्रीश्रीश्रीमिािाजास्धिाजपृथ््वरी्वरीिस््वक्मजङ्ग्विािुिशंशेि…)

1 स््वस्स्ति। श्रीसिराजचक्रबृंहद्भाष्यमिणयतारामणिथादिभिविद्धििवरुद्धालीविराजञ्जा
2 समन्ोित्व्ाक्रममन्त्राजाजिक्रमाधीश्रीश्रीश्रीमिीमराजपृथ््वीब्रििक्रमसमस्मे-
3 रज्जुवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहुदेवहहु�
मृ रूपम् अहदवसमोजिम् कानून तयार गर्नु भन्न्यार्धी ३ महाराज रणोदित सिंह राणा बहादुर के मित्र यस आई योद्ध लिन पिम्मा को काँड वाह्य स्थान प्राइम मिनिष्टर याण्ड कः

म्यांडि ईन विफलकालु ह्रुक्रम वकसी बल्याको कानून हामिबाट पनि मंजुर गरि सम्बत् १९३६ साल दुनिया आश्रोबी मदी १० रोज ६ मा लेखाबाट भाग्य रोहब रमा को-

सलका तजबिजमा सच्चालिता पारिज गन्या ठहर्यको सच्चाल पारिज गरी नजा चाहिन्या

कानून्रुपिरक्ष्मोको छ सबैले यसै कानूनमा लेखाबाबमोजिम् काजकाम निसा-

फू गर्नु यस्मा लेखाबाबमोजिम तगरी घटि बढी गन्यालाई मुलुकि बढा ऐनबमोजिम्

सजाय गर्नु किलापमा लेखाबाको कानून सच्चालून अपनु पद्दा हामिबार प्राइम मिनिष्टर

कानूनका तजबिजमा ठहर्यबमोजिम् अन्यपानाका हामिबिने अपनु मेंटु सच्चा-

उन हुंदौ। अैन हामिबो वेहेतर हया भाजप्राणिलाई सुबिस्ता रत्या हुन्या कानून अरु पनि प्राइम मिनिष्टरले वटालु अपनु ह्रुक्रम हन्त्या हन्त्या हन्त्या हामिबार ह्रुक्रम वकसी। धी प्राइम

मिनिष्टर लगाइतू अन्यत्को काजकाम गन्या कारिन्दा स्मेत्तु यसै कानूनबमोजिम्

काजकाम निसाफु गर्नु भन्न्यामा ध्रुव आवामाग्लक सम्बत् १९४२ साल मार्ग बढ़ी १ रोज

के वेदंग उपार्न पनि तिमिर धी ३ महाराज विर सम्सर जडंग राणा बहादुर प्राइम मिनिष्टर याण्ड कम्या-

डर ईन निफ्ले पनि साविरुया विरोध पनि र नजा चाहिन्या स्मेत्तु घटालु वटालु हुंदौ मंज्या हुं-

कुम वकसी।

[p. 2r]

[Seal of Prime Minister Vīra Samsera] 98

1 स्मस्ति श्रीमद्विप्रचण्डभुजिण्डेत््यादि श्री श्री मिािाज स््वि सम्सेि जङ्ग िाणा

2 तुर प्राइम मिनिष्टर याण्ड कम्या डन चिफ्फ

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[Seal of Commander-in-Chief General Khadga Samsera] 99

1 राजिछििि श्रीमद्राजकुमार कुमारसम्

2 श्री कम्या डन चिफ्फ जनरल जडंग से-

3 स्म्सर जडंग राणा बहादुर

97 For dvitiya.
98 The legend of the seal is not readable because of the quality of the reproduction.
99 The legend of the seal is not readable because of the quality of the reproduction.
Translation:

[p. 2v]

Venerable Durgā!

[Royal seal of King Pṛthvī Vīra Vikrama]

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 (an epithet of Kṛṣṇa) etc., high in honour, the venerable supreme king of great kings, the thrice venerable great king, Pṛthvī Vīra Vikrama Samsera Jaṅga Bahādura Deva, the brave swordsman, the divine king always triumphant in war.

Āge: To the chiefs and other officials of aminīs, addās and gauḍās, and [to] subjects in the administrative centres (sadara) and districts (mophasala) throughout our realm.

[The following royal order] has come down from earlier times: “There has been no law until today [pertaining to] conducting legal cases at aminīs. We have been handling [such] matters (kāma calāunu) only on the basis of savālas and sanadas. [Therefore,] we gave the following order to the thrice venerable Ke Si Yasa Āī (i.e., KCSI) Thoṅ Lina Pim Mā Ko Kāṅ Vāṅ Syāna, Prime Minister and Commander-in-Chief Mahārāja Raṇoddīpa Siṃha Rāṇā Bahādura: ‘Hold a Council meeting, having invited the Chief of the Munsīkhānā and [other] bhāradāras, and draft a law in line with the decisions of the Council during its meeting, our orders and [international] treaties, [and] in such a way that it does not conflict with any arrangements between the two governments (i.e., the Nepalese and British Indian).’ We approved the resulting law, and on Friday, the 10th lunar day of the bright fortnight of the intercalary Āśvina in the [Vikrama] era year 1936, we cancelled or corrected [existing provisions] and added newly required ones to the volume of written [law] based on what was thought needed to be corrected or cancelled during the Council's deliberations in our presence. We [hereby] order: ‘Everyone shall perform their tasks and deliver justice according what is written in this law. Whoever does not act in accordance with what is written in this [law] but deviates [from it] shall be punished in accordance with the main (baḍā) Ain (i.e., MA).’ If a law written in this volume needs to be corrected or a [new] law needs to be added [to it], the chief of the Ain Khānā may so add, delete or correct
in accordance with whatever has been deemed necessary in deliberations by the Prime Minister and Council. We have ordered, too, that the Prime Minister may add or expand other laws if they are deemed to be beneficial to us (i.e., the king’s government) and convenient for and protective of [our] subjects. Every official including the Prime Minister who performs tasks at *aminīs* shall perform them and deliver judgement in accordance with this law.” In line with [this earlier royal order] we [hereby] issue the order that from Monday, the 1\textsuperscript{st} day of the dark fortnight of Mārga in the [Vikrama] era year 1942 onwards you, too, thrice venerable Mahārāja, Prime Minister and Commander-in-Chief Vīra Samsera Jāṅga Rāṇā Bahādura, may add new required [laws] or remove ones that contradict customary [practice].

[p. 2r]

[Seal of Prime Minister Vīra Samsera]

Hail! The thrice-venerable Mahārāja, Prime Minister and Commander-in-Chief Vīra Samsera Jaṅga Rāṇā Bahādura, who is very mighty and has arms like a staff etc.

[Seal of Commander-in-Chief General Khadga Samsera Jhanga Rana Bahadura]

Approved by a venerable prince born to a prince, the venerable Commander-in-Chief General Khadga Samsera Jhanga Rana Bahadura.
Facsimile:

[p. 2v]
Glossary

In my prior publication, co-authored with Simon Cubelic and Axel Michaels (2021: 60–63 and 855–871), a thorough compilation of administrative, legal, and various other terminologies attested in the Mulukī Ain of 1854 and contemporaneous documents has been presented. In the interest of brevity and relevance to the current topic, I here refocus attention on selective terms most relevant to it.

**abbala** – The first and highest quality of four land categories (cp. *doyama, sima, cahāra*); a descriptor applied to tenants or the like associated with such land.

**adālata** – A district-level or frontier area law court (superior to ṭhānās and amālas); any law court in general.

**aḍḍā** – A law court superior to adālatas, ṭhānās, and amālas; the office, post, or station under a state functionary.

**amāla** – A village-level revenue collection office with semi-judicial functions, one playing a central role in judicial administration alongside adālatas and ṭhānās.

**amālī (amāli)** – The chief of an amāla office, i.e. a revenue functionary of a regional administrative unit with judicial powers.

**ānā** – A monetary unit equivalent to one-sixteenth of a rupee, four ānās equalling one sukā (or one ganḍā); also used to denote a sixteenth part of land or property.

**aputālī** – Escheatable property (here, property that reverts to the state if a person dies without male heirs).

**āvarje** – A daybook, i.e. a ledger with daily entries.

**baghara** – An ascetic group characterized by their tiger-skin robes, likely associated with a Śaiva sect.

**bahidāra** – A civil (or occasionally military) functionary with the responsibilities of an accountant, clerk, and scribe, entrusted with formulating official documents, and higher in rank than a nausindā.

**bajira** – One designation for the (prime) minister, and occasionally employed to denote a high-ranking political advisor.
bhāradāra (bhāibhāradāra) – (Lit. ‘burden bearer’) A generic term referring to a member of the royal family or a high-level state functionary.

bhāradārī-śabha – (Lit. ‘assembly of nobles’) The royal assembly, also functioning as the court of judicial review in the royal palace.

bhatāhā – A fellow caste member who is permitted to enter the kitchen and share a meal of cooked rice.

bicārī – A magistrate ranked under a diṭṭhā.

bintīpatraniksārī aḍḍā – A department directly under the prime minister charged with assisting petitions submitted to the prime minister.

cahāra/cāhāra – Land of the fourth or lowest quality (cp. abbala, doyama, and sima).

cākacakui – A low-caste male or female enslaved as punishment for a sexual offence. In a different context, it refers to cattle confiscated by the state for having caused harm to a person or for bestial sexual practices. This term is occasionally translated as ‘adultery’ or ‘fine for adultery’ or similarly for other deviations from the Hindu marriage ideal.

caudharī – A headman or landlord vested with revenue-collection rights, especially in the Tarai, and often used as a surname by Thārus who once held this position.

cautarīyā – A royal in a collateral line of descent appointed as a principal officer of the state, but also often a king’s second and third sons in the early Śāha period; later a high-ranking title with no specific functions attached granted to several male descendants of the Śāha kings at the same time.

daidastura – A customary fee or payment; it also denotes customs, traditions, or rules.

dāmala (dāmala) – A substitute punishment for perpetrators from castes exempted from the death penalty. It typically involved branding the offender’s left cheek, confiscating their entire property, and either life imprisonment or exile from the country.

dašanāmi – The collective term for ten different classes of ascetics, namely Āśrama, Tīrtha, Vana, Aranya, Girī, Parvata, Sāgara, Sarasvatī, Bhāratī, and Purī.

daskhat (dastakhat) – A term denoting a signature, especially that of the prime minister, and also referring to missives signed by the prime minister or other high officials.

dharmādhiṇkāra(rin) – The chief judge in religious jurisdictions, whose main duties were to grant expiation and rehabilitation to polluted
individuals. The post was exclusively held by Brahmins in the royal court.

dharmanibandha – A (Brahmanical) legal digest, a separate genre in the encyclopaedic commentarial tradition of dharmaśāstra literature.

dharmaśālā – A charitable institution or shelter providing facilities for devotees or pilgrims, and often associated with a particular temple or pilgrimage site.

dharmaśāstra – A treatise on dharma, the (Brahmanical) law code.

dīṭṭhā – A civil servant ranking above a mukhiyā but lower than a subbā.

doyam – Land of the second-best quality (cp. abbala, sima, and cahāra).

dvāryā (dvāre) – A gatekeeper at the royal palace who collects certain levies; a village headman; a local revenue collection official with minor policing and judicial powers.

gauḍā (gaũḍā) – A term for fortifications or fortresses, certain districts (Doti, Salyan, Palpa, and Dhankuta), and district offices responsible for maintaining law and order, all three categories historically overseen by military officials, initially kājis or sardāras, and later generals (janarala) or colonels (karnela).

gauruñ – A village agent (with functions that are not clearly delineated in available sources).

ghaḍī – A measure of time equal to 24 minutes, typically determined by the time a bowl with a hole in it is able to stay afloat in a bucket filled with water.

godāna – (Lit. ‘gift of a cow’) The ritual offering of a cow to a Brahmin or a certain amount of money given in its place. Additionally, it signifies a fine paid by an individual who has committed an offence resulting in the loss of caste or the accumulation of bodily pollution, serving as expiation to the dharmādhikāra or a Brahmin.

gosvārā – A term conveying the notion of belonging to a single group or being an integral part of several joint groups; chief or main, often denoting the first level of a hierarchy (e.g., gosvārā hulāka, gosvārā lagata).

gotra – One of the clan names of the ancient seers (ṛṣis) from whom all twice-born Hindus and others are believed to have descended, including among others Agastya, Bhāradvāja, Gautama, Jamadagni, Kaśyapa, and Vasiṣṭha.

guthi (gūṭhī) – A socio-religious organization functioning as a trust overseeing the management and financing of religious and charitable
activities by means of endowed lands or other revenue sources dedicated to these purposes.

hajuriyā – A bodyguard; also used as an adjective to denote being in waiting, for instance, on the person of the king (e.g., hajuriyā karnela or hajuriyā jarnela).

hākima – The leader of an administrative unit, government office, or court who is vested with decision-making authority and responsible for delivering verdicts.

havaldāra – A non-commissioned military officer on the order of a sergeant.

hukuma/hukum – A royal order, usually from the king or the Rāṇā prime minister (with the kingly title śrī 3 mahārāja), but occasionally also issued by a high-ranking official.

ijārā – A contract under which the government grants an individual the exclusive right to collect a specific type of revenue, exploit mines, etc., with the obligation to pay a predetermined sum.

ijārādāra – The holder of an ijāra contract.

jabānabandī/jamānabandī – A legal document in which a complainant, defendant, or eyewitness pledges in writing to accept whatever decision the court or legal body reaches in accordance with the law.

jāgira (jāgīra) – Land assigned to government employees in lieu of salaries.

jamdāra (jamadāra) – A low-ranking commissioned officer in the army who could also be assigned to civil offices.

jaṅgama – A group of wandering ascetics within the Liṅgāyata or Vīraśaiva tradition.

jeṭhā-buḍhā – A village headman overseeing local affairs, including the maintenance of law and order; some served in an official capacity at the royal palace as royal messengers or investigators.

jillā – A major administrative district; a category of land rights.

jogī – An ascetic or religious mendicant, specifically a follower of the Nātha tradition; a member of the Kusle community within the caste setting of the Newars in the Kathmandu Valley.

kacaharī – A public office responsible for dealing with legal matters, serving as a court on the local level.

kāgaja – A document with legal effect.

kājī (kājī) – An official of ministerial rank in the civil or military administration.

kānacīrā (kā[kal]naphatțā) – Ascetics with pierced ears, specifically followers of Gorakhanātha.
kaparadāra – A high-ranking official, a chamberlain, described as the chief of the royal household, the keeper of the king’s wardrobe, and the one in charge of jewellery and other valuable items in the palace.

kaptāna – A captain, a commissioned army officer ranking below a major.

kārindā – A clerk or low-ranking official under the authority of a hākima.

karnela (karnaila) – A colonel.

kaṭuvāla – A civil functionary; a village messenger.

khadganisāna(nā) – An executive order from the Rāṇā prime minister bearing a khadga nisānā (seal with an image of a sword).

khajāncī – The chief royal treasurer of the Kausītoṣākhānā.

kheta – Irrigated (paddy) fields in the hill region suitable for the cultivation of rice and wheat; a measure of land in the hill region, equivalent to 25 ropanīs or 100 murīs (approximately 1.25 hectares).

kumārī coka – The central office conducting audits and overseeing accounts of revenue collectors and contractors; it was also responsible for the proper financial state of crown lands.

kuruvā – A unit of volume equivalent to two mānās or 20 muṭhīs; a brass vessel specifically designed for measuring two mānās.

lālamohara – A royal decree bearing a red seal.

lephṭena (lephtaṇa) – A lieutenant, ranking below a major adjutant.

lokabhāra (lokābhāra) – A system under which a local community assumes responsibility for the payment of stipulated revenue through a designated representative.

mahāniyā (mahāne) – A local revenue functionary in the Kathmandu Valley, supposedly also responsible for taking care of open land and forest at the local level.

mahanta – The spiritual head of an ascetic centre (maṭha, āśrama, etc.) or wandering group.

māmulī – Referring to what is ordinary or customary; it can also denote usual remuneration or provision, often non-monetary, and may involve customary levies related to religious functions.

mānā – A volumetric measure equivalent to half a seer (approximately one pound). It also denotes a (copper) vessel designed to contain ten muṭhīs or one mānā of grains (anna).

marjī – An order issued by the mukhtiyāra, prime minister, or other high-ranking officer.

mārphata – (Lit. ‘through’) Royal documents, such as rukkās or lālam-ocharas, required on their backside a signature of the pertinent
ranking official(s), with ‘mārphata’ written before their full name signature, for authentication and implementation purposes.

**mauje / maujā** – A unit of land revenue administration in the Tarai; a revenue subdivision formed by a group of villages in certain hill districts and the Kathmandu Valley.

**maulavi** – An expert in Islamic law.

**mijhāra** – The headman of specific groups with low caste status, entrusted with the responsibility for collecting levies, judicial fines, escheated properties, and expiation fees from the families under his jurisdiction.

**muculkā** – A witnessed written declaration or official report (e.g., detailing the scene of a crime).

**muḍa(ḍ)nu** – A form of punishment for an offender not subject to conventional sentencing, entailing four patches of hair (cāra pāṭā mudṅu) being cut off from the head and any top-knot removed. This punishment is often administered concurrently with the dāmala form of punishment.

**mukhtiyāra** – The title held by the king’s chief minister in the pre-Rāṇā period, the prime minister in the early Rāṇā period, and the commander-in-chief for the rest of the Rāṇā period.

**murī** – A unit of land measurement in the hill region equal to one-fourth of a ropanī or one-hundredth of a kheta (the area of a murī varied according to the grade of land: abala, doyama, sima, and cahāra).

**nagarcī (nagārcī)** – A person who plays the nagarā drum, often the lead drummer in a nagarā bānā musical ensemble; a respectful address for a member of the Damāī̃ community.

**nāike** – A leader in such roles as the headman in a Newar village or the boss of a rakam work team.

**paisā** – In the early Śāha period, a monetary unit equal to one-fourth of an ānā or four dāmas, and with 1 rūpaiyā containing 64 paisās; in the Rāṇā period, this changed to 100 paisās in a rūpaiyā.

**pajanī** – The annual reassignment or reconfirmation of offices and contracts, often conducted by the king.

**pañca** – Five or more elders of a local judicial body assembled for settling minor disputes.

**pañcagavya** – A mixture of five products of a cow (milk, curd, ghee, urine, and dung) employed in Brahmanical rituals and sacrifices, and often used for purification (patiyā) to address bodily pollution within the context of the Mulukī Ain.
pañcāyata – An assembly of five or more elders forming a local judicial body.
pāthī – A unit of capacity equal to eight mānās or 4.546 litres; a copper container for grains with a volume of one pāthī.
patiyā – A penalty undergone in order to keep or regain one’s caste status.
patiyāpūrjī – An official written statement certifying a proper act of expiation.
phakira – (Lit. ‘beggar’) An ascetic, specifically of the Muslim faith, but in the Mulukī Ain ascetics in general, including Śaiva jogīs and sannyāsīs.
phāraka – A written receipt or a deed of release from some obligation.
pradhāna – A low-ranking state functionary tasked with serving as headman for specific communities within the Kathmandu Valley and beyond, or else as a local official responsible for revenue collection in villages.
pragannā – A unit of land revenue administration in the Tarai, comprising several maujās.
pramāṅgī – Permission or an order, typically in written form, coming from the king or a high-ranking government official such as the prime minister, often utilized when overriding existing legal norms.
prāyaścitta – Penance undertaken by a polluted person for absolution.
pūrjī (purji) – A writ, a written notice; a formal letter written by a government institution or an official to another institution or person.
rāṇārā – A writer or clerk, ranking higher than a bahidāra but lower than a mukhiyā.
rājaguru – A preceptor or guru to a member of the royal family.
rājapaṇḍita/rājapurohita¹ – A royal priest and counsellor, usually a hereditary post occupied by a Brahmin.
rājavaidya – A royal physician.
rakama – Revenue or a revenue item; mandatory labour owed to the government by peasants cultivating specific classes of land, like raikara, kipata, or Rāja Guṭhī land; compulsory labour obligations converted to specific services provided regularly and potentially over generations to government-run establishments.
rakamadāra – A holder of a rakama; a revenue functionary.

¹ The meanings of rājaguru and rājapaṇḍita sometimes overlap, corresponding to overlaps in the functions of the two posts.
**rāmatā** – An individual itinerant ascetic.

**rūkkā** – An executive order or missive from the upper echelons of authority (the king and prime minister, or also the queen and crown prince).

**sadara daphadara** – The General Registry Office, responsible for assignments in lieu of pay.

**sadāvarta-gūṭhī** – A charitable foundation (gūṭhī) dedicated to providing food for the poor, mendicants, and pilgrims.

**sanada** – An order, decree, or certificate of appointment, usually from the prime minister or commander-in-chief, but occasionally from some other ruling authority.

**sanyāsin (sanyāsī)** – A renouncer, often referring specifically to a member of the Daśanāmī order.

**sar(a)dāra** – A top-ranking official next in the hierarchy under a kājī.

**sarkāra** – A term used interchangeably to denote the government, head of government, or king, and encompassing both the ruler and the main governing body.

**savāla** – Ordinances, namely a set of directives, usually of an administrative nature, especially rules and regulations enacted based on an existing law or administrative regulations.

**sevaḍā** – A Jaina ascetic.

**sidhā** – A plateful of uncooked rice, lentils, vegetables, salt, turmeric powder, ghee, etc. presented to a Brahmin priest by his patron during a ritual or sacrifice; alms or regular food rations provided by the government or charitable endowments to support poor individuals, ascetics, students, or prisoners.

**sima** – Land rated third in terms of its quality (cp. **abbala**, **doyama**, and **cahāra**).

**śrī 3 mahārāja** – (Lit. ‘thrice venerable great king’) The imposing title initially bestowed upon the first Rāṇā prime minister, Jaṅga Bahādura, and inherited by all successive Rāṇā prime ministers.

**śrī 5 sarkāra** – (Lit. ‘fivefold venerable king’) The title commonly used to refer to the Śāha king, and often interchangeably to denote his government.

**subbā** – A governor or chief administrative officer of a province or district.

**subedāra** – The commander of a military company consisting of 100 soldiers, often assigned leadership responsibilities for a district. It was the second-highest commissioned officer, rank, below only a **subbā** and immediately senior to a **jamadāra**.
syāhā – An account book or ledger. The specifics of the account keeping process to which it refers remain unclear.

talsiṅ – A landlord to whom is due a portion of the harvest (bālī), either in kind or cash, from tenants (mohī) working on his land.

ṭhānā – A police or military office with semi-judicial functions responsible for maintaining public order. Under the Mulukī Ain, ṭhānās, adālatas, and amālas were the main bodies that administered justice.

tharī – The head of a clan (thara); an elder, often serving as a nonofficial tax collection functionary, particularly in the hill districts.

tolā – A unit of weight used, among other purposes, as the standard measure for gold and silver, consisting of 100 or 96 ratis, 10 or 12 māsās, and constituting one eightieth of a sera; the actual weight varied based on location and period.

udāsī – (Lit. ‘one who is detached or indifferent’) An ascetic practising withing the Sikh tradition.

ujura – A formal complaint, either verbal or written.

umarāva – A commander of a military post.

vaidya – A physician; the name of a caste.

vairāgī – A Vaiṣṇava ascetic (or religious devotee), specifically referring to a member of the Rāmānandī order.

vakila – An envoy (with the rank of a kājī or sardāra).

varṇa – One of the four principal caste-classes (Brahmin, Kṣatriya, Vaiṣya, and Śūdra) under the Brahmaical division of Hindu society.
Bibliography

Primary Sources

Texts


MA: (Mulukī) *Ain*:


4. MA 1885/1888: *Śrīmadrājakumārakumārātmajā Śrīkamyāṇḍara ina Cīpha Jenarala Deva Samsera Jaṅga Rāṇā Bahādurakā Marjī*


R-Ain. Samvat 1935 Sālamā Baneko Aminimā Parnyā Phaujadāri Mokaddamāharāko Kānum, NGMPP A 1375/5, National Archives, Kathmandu: Ms no. 6.1599
Primary Sources — 397


Published Documents

A 1375/5 [R-Ain]: “Samvat 1935 Sālamā Baneko Aminimā Parnyā Phaujadārī Mokaddamāhārūko Kānun.” National Archives, Kathmandu: Ms

1 Note that the titles of the unpublished documents are provided exactly as they appear in the catalogue cards of the digital database created under the initiative of “Documents on the History of Religion and Law of Pre-modern Nepal.”
no. 6.1599; microfilmed as NGMPP A 1375/5 on 13/07/1989. http://ngmcp.fdm.uni-hamburg.de/mediawiki/index.php/A_1375-5_Ain [last accessed on 10 June 2023].


uni-heidelberg.de/nepal/index.php/catitems/viewitem/9445/l. [last accessed 10 June 2023].


Secondary Sources


Secondary Sources — 407


The main ambition of this book lies in a detailed analysis of the formation and enforcement of Nepal's *Muluki Ain* of 1854, specifically focusing on the provisions regarding homicide within the *Muluki Ains* of 1854 and 1870. This study also examines contemporaneous legal records, revealing the complexities of the *Ain*’s implementation. The articles on homicide serve as a microcosm illustrating the broader evolution of Nepal’s legal code, which departed from out-dated punishments like genital mutilation and introduced fines and imprisonment instead. Still, the innovations introduced into the *Ain* of 1854 were not uniformly progressive. The *Ain* in its various stages of development thus showcases the complex ways in which legal systems inevitably undergo transformation.