

Laws made by King Sthitiraj Malla in Bikram Era 1436 (Nepal Era 500)

NYAYAVIKASINI (Manavanayashastrat)

Chapter on Debt Transaction (*Rinadana*)

Salutations to Righteousness (*Dharma*)

This world was covered by darkness. Nobody knew anything about this. In the meantime *Brahmajee*, the God having four heads (mouth) born.

Sun, moon, wind, fire, Heaven (*Dhuloka*), earth, water-deity, own soul of the creatures, God of death, day, night, early morning, early evening and righteousness (*Dharma*) know the character of the human being.

Where, whatever property is given and taken as a debt, such an act of giving and taking debt is called debt transaction (*Rinadana*).

After the death of the father his sons must pay the debts taken by the father in proportion to their shares. Whether they are partitioned or not, the sons have to pay back equally the debt like a burden of the father.

The debts taken by the paternal uncle, elder or younger brother or mother to support the family in a joint family should be paid at the time of partition of the inheritance.

If the debt taken by the father is not paid by the sons, grandsons have to pay the debt taken by the grandfather after the death of his father. The fourth generation of the family after the grandson i.e. great grandsons shall not be compelled to pay the debt.

Fathers wish son for their own interest wishing that he will release me from my creditor, also collect money from my debtor and make me released. Thus son

should assiduously forsake his own interest in order to release his father from debt by which father would not fall into hell.

If an ascetic or fire-holder (*Angihotri*) dies without paying debt, the fruit of their austerities/sacrifices or fire-holding shall go to the creditor.

Neither father nor son shall be liable to pay each other's debt which is taken out of lust, anger, for liquor, gambling and some others guarantee.

Debt taken by the son with an advice of the father to support family at the time of peril should be repaid by the father.

Debt taken by a disciple, a resident disciple, a slave, a woman and a servant should be paid by the head of the family.

The debt taken by the father, paternal uncle and elder brother, who has gone to abroad shall not require to be paid back before twenty years.

Debt taken in a joint family should be paid back by the living members after the death of other members. Even after his death it should be paid back by his son.

A woman shall not be compelled to pay a debt taken by her husband or son except it was taken with her consent.

A woman so ordered by her dying husband or a widow should pay debts taken by her husband; or one who enjoys that property should pay such debt because credit (wealth) and debt come together with.

Except taken in exigencies, a husband shall not be compelled to pay a debt taken by his wife. But the debt taken by wife, to support family, at the time when her husband had gone abroad should be paid by the husband. Debt taken by the wives of a washerman, hunter, cowherd and purveyors of liquor (*Sudhi*) should be paid by their husbands. Because there is mutual trust among them and family is also dependent on the ladies.

If a widow having a son abandons him and goes for second marriage with another man the second husband shall get her woman-property. The property of first husband shall go to the son from the first husband; it shall not go to the second husband.

When poor and sonless widow accepts second husband, such a second husband has to pay the debt taken by the first husband. Because woman is a resource and he who takes resource have to accept the debt as well.

If a widow accepts second husband along with the son and debt taken by the deceased husband, the husband shall have to release the woman from debt upon paying it.

He, who marries last type of Swairini and best type of Punarbhu she shall pay her husband's debt.

The learned people say that the transactions, undertaken by a woman shall not be considered valid, especially donating, pledging, and selling of house and land.

A transaction done by a wife with the consent of her husband is valid. In the absence of husband, it shall be valid if there is consent of the son. In the absence of both the husband and son, the king must have granted consent, only then transaction done by a woman is proved valid.

Even after the death of husband, wife is free to use the property given by the husband out of affection except the immovable property i.e. house or land etc.

A transaction made by a slave without the command of the master shall not be valid, because a slave himself is not a master.

A transaction made by the son against the will of father shall not be valid, because son and slave are on the equal footing in respect of validity.

In this world only three types of people are independent; they are the king, the teacher (Acharaya) and the householder (chief of the family).

All the people are dependent but the king is independent. The disciples are dependent but the teacher is independent. Woman, son, slave etc. depended individuals are dependent but the householder is independent.

A baby below the age of eighth years is like the child into the uterus. Until he/she attains the age of sixteenth years such a child is called an ignorant (*Anadi*).

A son is dependent; no matter how old are the parents. Because of the superiority of the seed, father is more superior than mother. In absence of father the mother and in the absence of mother, the eldest son is independent or chief of the family. They are independent to all men who are dependent to them. They are independent to cause to follow discipline, to donate and to sell or transfer property.

These people i.e. dependent on others are dependent like the children. The learned people of *Dharma Sastra* have said that the transaction done by them is invalid.

The learned people of *DharmaSastra* say that even a transaction done by an independent person is invalid if it is transacted in violation of the rules. A transaction done by an individual affected by lust, anger, afflicted with disease (*bayasan*), fear and addiction, excessive love and hatred (*Rag dwesh*) is invalid because such a transaction is also beyond the Rules.

Transaction done by the eldest and superior one of the family remaining under the Rules is valid. The transaction done even by them, without following the Rules, is also invalid.

Proof must be followed with all efforts through the valid matters. Modes of proof (*Prameya*) are ruined by inexpertly handled proof.

There are three types of proofs i.e. document, witness and possession while appropriating (transferring) property to someone else. Property could be returned back if it is appropriated on the basis of these three types of proof.

Documentary evidence is always reliable. Witnesses are evidence as long as they are alive. Possession is also an evidence after a passage of time. This is the saying of *Sastra*.

Out of these three types of proofs, witness is more reliable than the document and possession is more reliable than the witness. Ultimately, possession is the strongest evidence.

Even if there is a document, even if there are witnesses who are still alive, the matter does not deserve certainty in immovable property unless there is possession.

A man who foolishly allows his/her property to be used by any other person during his/her life time, he/she may not be able to possess such property.

If someone's property is kept to any other person up to for a period of ten years and no issue is raised about such property by the owner then the ownership of such a property shall go to the possessor.

If a property owner, except the mentally incompetent (Jad) and minor, does not raise issue while his/her own property is possessed by anybody else, such a property shall go to him/her who has in fact possessed such property.

A pledged property, property taken away forcefully, the property of a child, property kept as a deposit, mortgage, woman's property, revenue and property of a learned person would not be of others merely on the ground of possession.

The property of a woman and the state (King) shall never go to others even if it is possessed, without evidence, up to Hundred years.

Where there lacks possession, or a documentary evidence; in such a case document will be the evidence rather possession.

Possession without documentary evidence is not valid but after the death of the possessor there would be right of his/her heirs.

There are six modes where there shall be no evidence of possession; they are: - to give the property entrusted to keep safely to any other person without the permission of the owner, to seize by force, a property entrusted to keep as a *naso*, using of property without the knowledge of the owner, property taken as a loan and property used in the absence of the owner.

If plaintiff and defendant die before the disposal of the dispute then their sons have to precede the disputed matter. Mere possession cannot be conclusive evidence.

If a property has been possessed for three generations before father even in an unjust manner, no one shall be entitled to encroach such property by the latter generations.

If debtor has not said anything on his/her deathbed, witnesses can not be accepted as evidence even if they are alive after the death of debtor.

After the death of the debtor, statement of the witnesses is not evidence. Statement of witnesses is evidence only in the lifetime of a debtor.

Any lawful fact announced by a sick person on the deathbed is considered to be an evidence in the above mentioned six matters even after his/her death.

In the matters like a debt the latest position will be valid. In the matters like a gift the earlier position will be valid.

The act of giving and taking of property for increasing the property is called money-lending. Money lending is the profession (*britti*) of the money lenders.

The *Sastra* deals with four types of interest, they are - corporal (*Kayika*), periodical (*Kalika*), stipulated (*Karika*) and cyclical (*Chakrabridhi*).

Payment on installment adding interest in the principal is called corporal. If the interest is paid in every month it is called periodical. Payment by debtor in his/her favourable condition adding every month's or last month's interest is called

stipulated. To pay total principal amount along with interest on interest is called cyclical.

These were the general natures of interest on debts applying every where. Different systems of interest may also be introduced as per the Law (Custom) of the specific country.

Different interest rates are prescribed differently in different countries. For example, in some places interest is taken up to two times and somewhere it is three times or four and somewhere it is eight times also. Interest on gold, paddy and cloth is taken Two, Three and Four times respectively. Interest on juicy things is taken eight times. On female animals their offspring are taken as an interest.

No interest shall be charged on the debt given out of love, sometimes there may not be a deed on such transactions. On such loans one has to pay interest after Six months.

This is the rule on interest. It is translated into action based on the local rules. The interest on grain is classified into Three types. One who makes livelihood by such interest he/she is called usury (*Vardhushi*).

Vaishya jati may solve their practical problems from usury, but Brahman shall not engage in usury even at times of serious problems.

One who himself and his ancestors have not used and concealed the property to be paid to a Brahman then the property earned by himself and savings thereof should be given to his relatives, if there is no such relative it should be given to the individual of his caste, if they are none, it should be let on deep water. If he himself or any of his family members has to pay the debt of a Brahman then at the outset such a debt should be paid from such property.

After the payment of debt, the creditor should give a receipt to the debtor which would reveal that the debt is cleared. If it is not so possible, one should accept that

the debtor has paid the debt taken from me on such date has paid on such date. If so happens, the transaction would be clear between the debtor and creditor.

Both creditor and debtor have to keep a document and eye witnesses of a transaction as evidence for trust stating that particular amount is given to a particular person on such date. The learned persons have divided surety in three categories for three matters: for appearance, for payment and for proving the truth.

If the debtor does not repay the debt or disappears with the deposit then the guarantor has to make the debtor appeared before creditor. If the guarantor fails to produce the debtor then he/she must pay the debt.

If there are several guarantors in one transaction and if debtor disappears with deposit, in this condition guarantor may agree to pay property of creditor, but if the amount is found exceeded in the deed then the guarantors may initiate action against the creditor on their discretion.

In a case where the debtor does not pay the property of creditors and the creditor claims with the guarantor and if he is compelled to pay such property then the debtor has to pay such guarantor twice of that amount which he has paid to the creditor.

One who can control or vigil both creditor and debtor and trusted by both of them is called *Audhi*. Such a person is brilliant. Such person does not take financial benefit from both of them. But such a person prescribes particular norms without causing any harm for both of them on his/her discretion.

Transaction must be kept clean even borrowing from other places or keeping deposit by debtor any goods equivalent to that property, he himself makes clear (pays) the property of creditor. Such goods may also to be kept safely. It may also be possessed. It may or may not be beneficial to the debtor or it may be neither beneficial nor harmful. There are two types of documents: firstly, which are prepared by one's own handwriting and secondly, prepared by other devices.

There are two types of documents: Firstly, those with witness and secondly without any witness. Validity of such document depends on their local convention. Even though they may be against local convention if it is pursuant to prescribed rule of *Audhi* and if order (syntax order) of the document and letters therein are not lost or broken then such a document is deemed valid.

A document which is made by one who is intoxicated, by one who has been charged (attacked) by other or filed a case, by a woman and minor (under aged), by force, by intimidation (showing fear and terror) and by deception, these documents are not deemed valid.

There is no problem even if the witness, the creditor, the debtor and the scribe are dead and if basis of document (pledge or main content) is true then that document is deemed valid.

There are two kinds of pledge: - (1) *Sthabar*/immovable (immovable - land, house etc.) (2) *Jhangam*/Movable (movable - horse, cow, buffalo etc.) Both of these pledges are acceptable as long as they are in one's own possession, not the others.

Even if the witnesses are dead, if the creditor has made heard the total document time and again to debtor or his/her successor saying that I have this document of such an amount of property to be paid by you to us' or has not made heard whatever may be, if the document is shown then that document shall deem universally (*Sarbatra*) authentic.

A document which has never been made heard to debtor or never has been shown even the size of document saying you have to pay this amount of property to us and has been made only for transaction; it is not regarded valid even if witnesses are still alive.

When a document is deposited in another country or caught by fire or transaction has been done without a deed or the document is taken forcefully by anybody else in such conditions gentle people shall deliver the decision studying it seriously.

If there is any doubt to the debtor about whether this document is prepared at that time or it was made later on by the creditor to cheat him, he has to compare and see the marks and prints of the finger minutely.

There may be signature of any other individual which may look similar on the document or it may have been prepared for any other reasons. Therefore if there is any doubt to the debtor he/she should cause to examine it by the experts (Aagam Hetus) and truth should be confirmed.

Transaction may also be made in unwritten-form like in written form. Whether the transaction is in written or unwritten form the creditor shall not have to endeavor to make such transaction in his own's favour through the witnesses; document is stronger than witness. A document is valid even though no witnesses are there regarding any transaction.

To be torn, to be separated in order, to be forcefully taken the whole document and to be unclear, these are faults of the document. If so happens another document should be prepared. This is the rule of preparing a document.

When creditor and debtor are in dispute over a suspicious transaction, it seems that things are sorted out principally by witnesses because they have heard and experienced the matter.

When Plaintiff and defendant are in a dispute over a suspicious transaction, the real fact is expressed by the witnesses because they have seen, heard and experienced the fact. Therefore, there is a necessity of the witnesses. There is importance of witness because they have directly faced the content by their eyes and ears. If ears have heard what someone else has said, content should be clarified by discretion. Matters faced by the eyes (seen) are physical work of the body (bodily work).

The learned persons have described that there are eleven types of witnesses. Out of them five types of witnesses are appointed or artificial (unnatural) witnesses and

six types of witnesses are natural one (1) a witness to a document (presented by writing). (2) One who has been remained to say particular thing (3) A causal witness (4) A secret witness (5) A direct (open) witness these are appointed witnesses. Learned person have proclaimed that not appointed (natural witness) are also of six types. (1) If there is dispute of parties of whatever village that the villagers are also witness. (2) Case deciding authority is also a witness. (3) King of the parties to the dispute is also a witness (4) Individuals who know both sides and prepare transaction are also witnesses. (5) The influential individual who is attracted by all efforts by the cunning disputant is also a witness. (6) In a family dispute a member of the family is also a witness.

In the family disputes, a member of the family may also be a witness. Members of good family (*Kulina*) and innocent (who do not make deception) people may also be a witness because of their birth, work and financial condition.

Lower grade witnesses are reproachful. Therefore, truthful *Brahman*, *Vaisya*, *Kshatriya* and even *Sudra* free from reproach may also be witness. When there is a dispute between the individuals within their creed (*barna*) one may be a witness from their respective creed or in the disputes of individuals of all creeds, individuals of all creeds may be the witnesses.

In the community of guilds (merchants) individuals of fellow guild would be witnesses. In the case of outsiders, the outsiders would be the witnesses. In the transaction between the women, women would be the witnesses.

Sometimes there is hatred among guilds etc. they should not be prescribed as witnesses amongst themselves because evils are always evils.

The learned persons have mentioned in *Sastras* that there are five kinds of disputes without witness (1) Because of accusation (bad name) (2) Because of opponent's fault (3) Because of contradiction of statement (4) Because of the statement of the petitioner. (5) Because of statement made after death. The reasons for the same are

as following in the order (1) Because of merely sayings of learned vedic persons (2) Because theft or other offences are apparent (3) Because of contradiction of statements of witnesses in the dispute (4) Because one's statement is not properly supported by own-self (5) Because of the matters which were not told by the main party of dispute before his/her death.

When the witnesses repeatedly speak at the time of dispute between the parties for any purpose then those witnesses become his/her witness to whom they were previously linked with.

If the individual indicated by a witness dies or leaves the area then the testimony of his/her opponent witness is evidence; his testimony is not evidence.

Document is evidence even after a very long time because it makes the transaction trustworthy. Therefore, one has to write if one knows or cause to write if one does not know.

The testimony of witness can not be regarded successful until completed eight years. The testimony of such witness who comes voluntarily to be a witness and one who gives statement without appearance is regarded evidence only after completion of five years. The testimony of a secret witness is regarded trustworthy after completion of three years. Testimony of such witnesses is regarded successful at that time.

There are different rules on different times for those witnesses who do not want to be face to face but give their statements. Because those who know Sastra say that it is to be observed probability of argument on the basis of memory-power of the witness.

An individual whose memory-power and hearing power are not destroyed and remain always fresh, they are worthy to be a witness for a long period.

There are other six types of disputes where one should not depend on the witness. Learned persons say that these disputes should be decided considering the indications/symptoms/circumstances.

An individual who has a firebrand or arm in his hand, unknown individual, destructive individual who attempts to attack to cause death, individuals pulling their hairs at the same time, individual who (attempt to go) goes to the wife of other, individual approaching close to a bridge with a spade in hand and attempting to destroy bridge, an individual who destroys forest with *Khukhuri* in hand, individual who is involved in beating and defaming, an individual having mark of that in the body – in such disputes examine own self to find out the degree of their crime; testimony of a witness is not required.

If a person imitates the get-up of someone else and commits a crime to allege him due to enmity, such a case has to be thoroughly examined by the experts promptly. An individual having financial transaction with concerned one, his close relatives, individuals who assist him, his enemies, individual found guilty, individuals bribed by the opponent should not be examined as a witness.

A slave, dishonest, one who disqualified to eat in the feast organized in the memory of deceased, aged, woman, child, porter, drunk, insane, negligent, measurable, gambler, priest of village, traveler of long journey, trader who makes livelihood doing work in the ocean, *Sannyasi* (World renouncer), afflicted with disease, hunter, *Vedic* Scholar, immoral, impotent, professional dancer, atheist, cultureless, individual who abandoned wife and fired without any reasons, one who performs gaggyan by an unauthorized person, one who eats in one pot, (very close person) friend of enemy (Spy), relatives, *sapindi* (close clan), culprit, dancer, individual who makes his livelihood by poison, snake catcher/player, one who gives poison to other, one who arsons in other's residential home, greedy, son of *Sudra*, minor sinner (he who commits minor sin), one who is tired, individual

who commits violent acts like robbery, calm individual, one who breaks traditional decorum and adopts commoner's behaviour, forger, oil dealer/seller, radish trader, one who is possessed by spirit (one who speaks just like ghost controller), one who commits treason, minor astrologer who forecasts year, or stars, who is known by all by his activities that this individual is criminal, one who is ready to sell himself, one who is deformed, one who engages his wife in prostitution for livelihood, individual with bad nails, individual with yellow teeth, one who is suffering from leprosy, one who revolts against friends, person having offending nature, seller of liquor, magician/juggler, greedy, violent person, one who opposes with any community or group, hunter, one who makes photograph, one who trades *Shankha*, outcaste person, forger, thug, one who is degraded from his karma gardner, king's official, Brahman who sells man, poison, weapon, water, salt, cakes, etc. and who is a usury, one who is strayed from his own *Dharma*, one who makes livelihood doing other's appreciation, one who serves lower castes, one who quarrels with his father and one who produces division among the friends such individuals may not be entertained as a witness.

It has already been said that the salve and a cunning person who makes his livelihood causing harm to others etc, can not be a witness, even then they can sometimes be witnesses considering the importance of their work.

Violent cases like theft, robbery and cases of physical assault and defamation may not be proved without the witness.

Even among themselves a child, lonely individual, woman, cunning person, family relatives may give otherwise testimony because of enmity, therefore such individuals can not be entertained as a witness.

A child might prevaricate (say anything) because of his ignorance. A woman by nature lacks veracity in transaction therefore she is also not authentic, a cunning person is habitual of committing sin so he does not fear with sin. Family relatives

may be purchased by money and they may say anything if they get money. Enemy wants to take revenge therefore he is waiting for opportunity. Therefore these people can not be the witnesses.

If the dispute between both plaintiff and defendant is serious and an appropriate witness could not be found then even a disqualified individual may also be testified before the bench as a witness if both the parties agree as of such person.

If an individual looks like a sick because his fault is expressed, shifts from one place to another place repeatedly, follows everyone, coughs unnecessarily with open mouth and big sound, searches knowledgeable individuals, scratches floor with feet, tugs his arms and clothes, changes the colour of the face, brings changes in the forehead even in normal condition, shows dry lips, stares upwards and to the side, speaks a lot hurriedly without any context even no question has been asked, such a person is a cunning witness. A person who commits such sin should be imposed a severe penalty.

He who tells others that he is a witness in a particular matter and does not act as a real witness such an individual is regarded serious criminal than already mentioned cunning witness.

After summoning both types of witnesses those whose behaviour is known and those who are totally unknown should be testified separately under the oath.

A Brahman is required to swear of the truth. A Kshatriya is required to swear of his weapons and vehicles. A Vaisya is required to swear touching the cow or taking seeds and gold in the hand. A Sudra is required to swear with all the sins.

Before testifying a witness one should create great fear in the mind of the witness by means of extolling incidents described in Puranas, religious texts, text of truth and bad consequences of perjury.

An individual, who knowingly produces false testimony, will be going with a broken cup of clay at his hand before the family of his enemy having shorn by hunger, thirst, necked, wretched and saving the hairs of head. An individual who produces false testimony will have to see greater numbers of his enemies sitting at the entrance of the city suffering from hunger because his entry to the city is prohibited. An individual who flops back and forth like a bull's ear at the sitting place of witness binds thousand of Varuna's fetters on himself. He gets free after the completion of one hundred years from one fetter. Thus he will be released from the entire bondage only after suffering a lot of pain till uncountable numbers of years.

Listen, I tell how many of his relatives are killed by an individual who speaks false in the course of testimony as witness. If a witness lies about ordinary livestock he kills five of his relatives or he will suffer that much sin as if he has killed his five relatives. If one speaks false about cow in the course of testimony as a witness he is burdened by sin for killings of his 10 relatives. If one lies about horse he is burdened of sin for killings of 100 of his relatives. If one produces false testimony as witness in the case of a man he is burdened by sin for killings of 1000 of his relatives. If one speaks false while producing testimony as a witness about the gold he is burdened by sin for killings of his born and unborn relatives. If one produces false testimony as a witness in the case of land he is burdened by sin for killing of all. Therefore never speak false about the land. Truth is the only one alternative which purifies own-self; truth is also the stair to go to heaven, just like a greater boat is the best means to cross the sea. If blessings of one thousand *Ashwomedhr yagga* (horses sacrifice) on the one hand and truth on the other hand are weighted in the balance, truth is found superior than the sacrifice of one thousand horses sacrifices. To make one lake (reservoir) is better than to make hundred wells. To perform a *yagga* (sacrifice) is superior then to make one hundred lakes (reservoirs). To have a good son is superior then to do one hundred

sacrifices. To do truthful transaction is superior then to have one hundred good sons. It is through truthful transaction that the earth becomes door of prosperity. Sun rises on the basis of the truth. It is through the truth that the wind flows with good movement being purified. Water flows on the basis of the truth. To do truthful transaction is the supreme gift (Dan). Truthful transaction is the supreme *Tapasaya* (meditation). Truthful transaction is the supreme *Dharma* which makes available the supreme place says our *Vedashastra*.

In short, it is said that the Gods are regarded truth and mankind untruth. Therefore a person whose mind is rested on truthful transaction such an individual becomes divine even living in this world. Therefore, speak truth abandoning false transaction, do truthful transaction. If you do so you will get your desired things. Untruth is like the fire, it is a terrible hell. Follower of that will get that. Even in hell the pitiless powerful servants of *Yamaraj*, with swords at their hands, will cause pain cutting tongue of those false speaking sinners all the times. Servants of *Yamaraj* will pierce with spears to untruth speaking sinner, they will pull and throw into fire, they will throw into water reservoirs, and they will throw into the deeps filled with pus, blood and fats and also into the dark hell named *Kumbhipak*.

In this way a person who commits sin will endure terrible tortures of hell for a long time and reborn in the wombs of vulture, crow and similar beings in the earth. Learn the vices of untruth and virtues of truth and confine yourself on the truth to save yourself, do not push to hell yourself. Neither relatives nor friends nor the sufficient wealth could rescue you. There is no possibility of your rescue at all. When you undertake to be a witness your ancestors (*Pitris*) rely on hanging and say- will you save them or will you condemn them? If you speak truth they will be liberated. If you speak untruth they will fall down. Truth is the very soul of a human being. Every thing depends on truth. Therefore be attached with the soul of truth or welfare. Everything between the day you were born and the day you will die shall become useless if you distort the truth. There is no greater *dharma*

(righteousness) than truth and there is no bigger sin than speaking untruth. Particularly to speak truth is the *Dharma* of a witness. Therefore do speak truth. If a scoundrel with no fear of hell casts aside his words or speak untruth for the benefit of someone else what would that sinner not do for himself ? Meanings are tied-up with the speech, speech is the root of meanings and those meanings come out of speech. Therefore one who steals those speeches he steals everything.

All meanings depend on speech. There is feeling of soul in the root of speech. Therefore, one who perjures the feelings of soul, he is a thief.

If the statements of a witness are self-contradictory then one has to consider different kinds of evidence. If there is uniformity in evidence then that would be considered to be the truth. For this purpose assistance should be taken of those individuals who have better memory power and good character.

In disputed matters, the *Dharma* of a witness depends on the testimony of those individuals who have strong memory power.

When witness appears in person for testimony in a particular matter but can not establish the evidence properly, such a statement cannot be accepted. If the statement is contradictory in the matters of a country, time, age, quantity of material, appearance or caste, in such conditions witness is said to be untrue. Where there is contrast in the saying or statement in such places the witness and his opinion is false. When witnesses state either less or more than the real fact, that too is considered next to nothing. This is the rule of testimony of a witness.

When there is neither a document nor witnesses in a transaction due to the senselessness of a plaintiff or plaintiff himself deceives or patches-up, in such case there should be followed three rules: Firstly, to encourage the plaintiff time and again to give-up wrong path and to inspire to follow the truthful path. (2) To take his statement in written form by which he could not get any opportunity to change

his statement. (3) To inspire him to come to truth by means of an oath. Plaintiff shall gradually come to the proper direction by means of these three Rules.

If one can collect and show eyewitness or direct evidence or material evidence to the accused in the course of taking statement he will be unable to negate the fact. Make efforts for his confession by asking direct and indirect questions for three-four or five times. Even these endeavors fail follow him with all techniques through the relevant consequences of circumstances, place, time and the act etc. Even all these techniques fail cause to bring him in to the issue of fact by an oath.

While taking an oath cause to swear him in the name of fire, water and pious works performed by himself based on the situation.

Lamp removes darkness and brings light like that it indicates him to walk in the path of truth removing from the path of untruth. Therefore do say if you are innocent the fire will not burn you and if you are not innocent it will burn you.

In the cases of concerning the abandonment of purity of conjugal life with husband by the wives, in cases of theft, in the cases of concerning violent work as forcefully looting of other's woman and land and properties even if one denies each and every thing do bring this rule to an experiment.

Oath taking was common to the Gods and sages as well. *Vasistha Rishi* had taken an oath when he was summoned by demon. Similarly Seven Sages (*Saptarsi*) assembled without any doubt and alternative for the sake of *Indra* to solve main issue and had taken an oath for their mutual purification.

If an individual confesses of committing a transgression or accepts of committing a crime before the bench and agrees to serve the penalty prescribed by the society or court of justice then his punishment should be half what is normal for that offence.

The sinner (offender) tries to conceal the sins (crimes) because of his wicked nature, the civilized people do not satisfy with imposing minimum penalties to such person. Therefore, a sever punishment is imposed to that person.

This is the end of chapter on Debt Transaction (*Rinadana*)

NEPAL LAW COMMISSION

Chapter on deposit (*Upanidhi*)

When money is taken from a trustworthy person in a need and if the security amounting more than that amount is taken; it is called as *Naso* by the scholars.

A deposit which is being covered for secrecy and kept in others house, it is called *Aupanidhika*.

An unaccounted and unrevealed material packed and sealed outside on the packet is called “*Upabidi*” deposit.

Such “*Upavidhi*” may be divided into two categories (1) held with the witness (2) held in confidence without a witness. It must be returned under the same circumstances as of the holding, i.e., if it is held with a witness it must be returned back in front of the witness. If it is otherwise it will not be trustworthy.

If the deposit holder does not return back the deposited goods after the payment of property taken, he/she make a complaint to the king, and the king should punish the criminal and cause to return it back. If the deposit is proved lost then cause the holder to pay the equivalent value of the goods in cash.

If it is known that the holder of the deposit has made a profit out of the deposit without the permission of the depositor, do make a complain on it.

The government should punish the deposit holder and cause to return the deposit back. In such circumstance the deposit and the penalty so recovered should be returned to the depositor.

If the deposit holder hesitates to return goods saying it is lost even after the payment of property to the deposit holder and if it does not matches to the rules made by the king and God; then it is deception committed by such person.

If the accused of different transactions conceals or cheats or deceives in the course of inquiry and does not speak truth or confesses in any case; then, compensation

should be paid in all of the accusations (cases). This is the rule specified by the *Dharmashastra* in relation to the procedure of *Nikhanne* of goods in all transactions upon paying the money to the creditor as per the promise made for *Naso* where any goods are deposited with the craftsman as *Upanidhi* or *Naso*.

This is the end of chapter on deposit (Upanidhi)

NEPAL LAW COMMISSION

Chapter on Joint Venture

Now, it is described on the matter of transaction relating to a joint venture industry for their own benefit by merchants etc. and people of different classes.

The basis of merchant group to undertake a joint venture for making profit is the collected principal contributed by all as a share. This is preceded in accordance with Law and Rules made by them.

Some of them have more shares and some may have fewer shares. The proportion of profit and loss of a shareholder depends on the proportion of his investment. In this way the shareholders of the company divide the time and make a working schedule and division of work. In this way all the shareholders should and shall undertake their responsibility in a principled manner and appropriate time without differing from the same.

If anyone acts beyond the decision of the meeting of all partners or negligently commit any wrong or knowingly commits any prohibited act he shall be liable for compensation.

If a member of the company protects the company through his personal efforts from the act of God (*force majeure*), robbers-thieves, and problems created by the king then a share of one tenth out of the total profit of that year should be given to him as a prize.

If the individual who has saved the company from such problem through his efforts dies without taking such prize do give it to his coparcenary relative. If such a person is not there give it to his any other relative. If a priest dies while doing *Yaggayan* (sacrifice) the *daksheena* shall go to any other competent person who completes the *Yaggyan*. If a priest abandons a faultless good sacrificer who has committed no offence and if a sacrificer abandons a good priest, both of them are liable to a penalty. There are three types of priest – (1) one who is entrusted by

one's ancestors conventionally (2) one who is senior than the sacrificer and knows all about him (sacrificer) (3) one who is appointed by another sacrificer. In addition to these three types of priests, there is one another type of priest also and he is one who comes himself to the sacrificer and performs priestly duties as an help to the sacrificer out of his affection. There is no sin in abandoning this fourth type of priest if he is a not required. The merchant has to regularly pay the tax imposed on him or imposed on company by the government in accordance with the rules of the nation. It should not be avoided at all because this is a tax (portion of the king).

If an unscheduled (unappointed time) merchant evades the tax or provides false statement to the tax officer or lies about quantity, do collect eight times more than the evaded amount.

Foreign merchants who visit as guest to know the market situation or to meet children or coparcenary relatives of those merchants who are doing business in abroad from their perspective shall be provided security by the king until they meet their relatives.

If his children or coparceners are no more (died) do handover him to his close relatives, even if they are not there do handover him to his distant relatives. If nobody is there, the king shall provide security to those individuals secretly for a period of ten years.

If any of his guardians could not be found even keeping him securely along with family in own nation till ten years, the king shall hold him under own control. It shall not be considered to be a breach of *Dharma*.

This is the end of chapter on joint venture.

Chapter on Resumption of Gift

When one has improperly given any goods and wishes to take it back again such a transaction is called Resumption of Gifts under the title of law.

In legal proceedings there are four kinds of gifts, they are: (1) which must not be given as a gift (2) which could be given as a gift (3) already given gift (4) made ready to give but not yet given gift.

Among them, there are eight types of gifts which must not be given. There is one type of gift which should be given. There are seven types of gifts which are already given. There are sixteen types of gifts which are not yet given.

(1) Property separated for monthly *Shradha* (offering to be done in the memory of the deceased) or for *Darsha Shradha* to be done on the day of *Aunsi* (moonless night) (2) property obtained by begging (3) property of others held as a mortgage (4) common (joint) property having rights of many individuals (5) property deposited by other as a pledge (6) remuneration already given to do any work; (7) entire property (*Sarwaso*) having heirs; (8) property promised to give to any other person. These are the properties prohibited to given to any other person.

Only the property saved after taking care of one's wife, son and daughter, parents like relatives is regarded the property which could be given as a gift. To give any *Dan* (religious gift) upon creating problems in the life of dependents (*Posayabarga*; to whom you have to feed) is a sin.

(1) Property obtained by selling goods from the shop (2) Property obtained by wages (3) Prize given for being pleased. (4) Property given by a person out of affection (5) Property given for gratitude (6) Property given as bride price (7) Property given for a favour- these seven types of properties are called the already given gifts.

(1) Given out of fear without desire (2) Given out of anger (3) Given out of sorrow (4) Given out of suffering from a disease (5) Given because of falling the fire (*Ulka*) (6) Given as a joke (7) Given being confused (8) Given being compelled through deceit (9) Given by a child (10) Given by a dumb fool (11) Given by an individual who is not independent or who is living under other's control (12) Given by an individual who is intoxicated by alcohol etc. (13) Given by an insane (14) Given with a hope of return that one will do my work (15) Made available to the fool through making confusion saying that 'this individual is the worthiest recipient of this gift or made available to an unworthy recipient saying to worthy recipient that 'this is not the recipient. (16) Given without knowledge – These sixteen types of properties should not to be given as a gifts.

A person who, out of greed, accepts the gift which should not be given (any one out of the said 16 kinds) and a person who gives a gift which should not be given, both of them are to be punished.

This is the end of the chapter on resumption of gift.

Chapter on Breach of Contract of Service

An individual who agrees to provide service residing at your home under your command or your family from the date to a particular day and does not abide by it, that is called breach of contract for service (*Abhupetaya Shusursa Vivadpad*).

Scholars have mentioned in Shastra (text) that there are five types of domestic service providers, four types labourers and fifteen types of slaves. A student (*Shisaya*), an apprentice, a hired man (*Bhritak*) and an overseer (*Adhikarmakrita*) all these are regarded as labourers. The child of a slave born in one's own house will be a slave. The scholars say that the common duty (*Dharma*) of all of these is to live under the control of others (dependency). Their specialty, livelihood and caste is based on their occupation.

There are two types of work (1) Impure (2) Pure. A work to be done being a slave of anyone else is an impure work. The other works are pure works.

Not to clean the house and door ways, not to remove the dirt gathered on the road, touching of private parts, to stay without cleaning hands after taking meal, disposing of feces and urine and to touch the master's limbs by the private part are known as impure works and other works are pure works.

Until the completion of study, a student (*Shisaya*) has to piously serve the Guru (teacher). Similarly he has to serve the wife and son of the teacher. While living at the house of a Guru, one should always be abstinent, beg for food, do not sleep on palang, sleep on the ground making a bed, and do not put on any ornaments. Be last to bed and be first to rise than the Guru. Do not avoid work asked by him without obtaining the permission of the Guru and do not directly stand before the Guru put all efforts to the work ordered by the Guru without any hesitation. Study at the appropriate time as long as the Guru is not averse. At the beginning and the end of the study bow down your forehead on the feet of the Guru.

If the student does not work as the order of the Guru, beat him with a solid matter or a stick of bamboo cane without making him hurt. But do not beat him harshly, beat lightly saving head and chest like sensitive organs. Even then the Guru has to punish him like the king to develop a feeling that punishment was reasonable for his reform and it should not cause lose of his confidence after making him confession of his crime.

After an honorarium ceremony (*Samavartan Sansskar*) upon completion of study a student should return to his own home providing honorarium to the teacher. This is the system of livelihood to be arranged between the Guru and Shisaya.

A person who is interested to obtain better information of the traditional craft of his family, one should with the permission of his relatives, stay with the Guru for a specific period of time. While staying with Guru if he has not taken food from the Guru, the Guru shall not press him any other work, except making him learn the craft what he has desired. The Guru should treat the Shisaya like his son.

If a person abandons an excellent Guru (who does not cause any misbehaviour) who is teaching him well the skill so desired to learn, such a person should be forced to stay even providing confinement as punishment.

Even after the completion of skill or education so desired whatever amount of property the Shisaya earns using his skill staying with the Guru till the time he has promised, the teacher is entitled to receive a share of it.

The Shisaya who has learned or completed desired skill/education from the Guru and if the time also has expired which he had promised, he could return home taking an order of the Guru upon doing *Pradakshina* and paying honorarium to him as per his capacity.

A person hired in consideration of food is called a Bhritaya. The Bhritayas are three types- (1) Best (2) Medium (3) worst. The wages for his work is determined as per his capacity of the work and food he consumes, or if he has low working

capacity and high food intake then he will get lesser wages. If he has high working capacity and low food intake then he will get high wages.

A worker (*Bhritaya*) who operates weapon is regarded as the best one. The agro labourer is regarded as the medium one. The labourer who works bearing man is regarded the worst one. In this way there are three types of labourers (hired men).

The labourer who is empowered with financial right is called overseer (*adhikarmakar*). This *adhikarmakar* (overseer) is of two kinds because they maintain the family and office accounts. Now they will be the fourth types in the range of total labours. Rests of the fifteen types of other hired men are called slaves.

(1) Slaves born on one's own house, (2) One who was purchased (3) One who was acquired as a gift (4) One who is inherited (5) One who was saved in the time of famine by providing food grain (6) One who is pledged by his master (7) One freed from a large debt (8) One captured after a victory of war (9) One who is won in a wager (10) One who agreed to become a slave. (11) One who failed to remain as a saint and returned back (12) one who has come to be a slave for a specific period of time (13) One who has become slave for survival (14) One who is attracted with a female slave who is suitable for him in the house of master (15) One who has sold himself by taking money- These are the fifteen types of slaves described in the *Shastras*.

Among these, the first four types of individuals happened to be a slave merely because of the negligence of the master, therefore these people *ipso facto* be freed.

Out of the other slaves, if a slave rescues his master from a life-threatening situation then he shall be freed from slavery and shall be entitled to get coparcenery (share in property) like a son of the master.

An individual made slave by providing food while he was hungry, he could be freed by himself from slavery by giving a cow and a bull to the master. But he

cannot free himself from the slavery if he was saved by providing food grain at the time of a famine.

An individual whose body is pledged as security by others, if any master rescues him paying money involved and the rescuer may engage him at work because such an individual is slightly different from the *Krita das* (occupied slave).

An individual who became a slave for not paying the debt to the creditor may be freed upon paying the principal and interest to the creditor. The time bound slave is freed after the expiry of the time limit.

One who agreed to be a slave or a prisoner of war after a victory in war or individual who loses in wager shall be freed from his slavery upon helping his master in a task which is risky even to his life.

Unsuccessful saint shall be a slave of the king and not of the others. Such corrupt individual from *Ashram Dharma* shall neither be freed from slavery nor be purified.

The slave engaged at work merely providing for food without giving any remuneration is called a devoted slave. Such devoted slave will be freed immediately at the time when he wants to be freed. A slave who has come following with a female slave will be automatically freed when the female slave becomes freed.

A free individual having lowest nature borrows money from the creditor pledging himself he shall be the lifetime slave of the creditor.

Those persons who are enslaved after abduction by thieves and then sold by them and individuals enslaved by force, they must be freed collectively by the king making law; slavery does not exist in such cases.

It is not allowed to make slave only being inverse order of castes. One who abandons his *Dharma* he shall have to bear slavery like wifehood.

If an individual who is already under the control of somebody else requests to any other individual saying- “I am yours please rescue me” such an individual cannot be freed from the original (first) owner. He belongs to the original owner.

In this world three types of people remain poor. They are a wife, a slave and a son. Whatever property they obtain of that belongs to the person to whom they belong.

An individual who wants to free his slave he should take a jar with water on the shoulder of the slave and break down it throwing on the floor and he should anoint his forehead with un-husked paddy and flowers and, say three times “you are freed from my slavery now on” turn him to the east and let him go.

This is the end of chapter on breach of contract of service.

NEPAL LAW COMMISSION

Chapter on Non-payment of Remuneration

An individual hired for work on remuneration does not render reasonable service, the Law about the issue that whether remuneration is to be paid to him or not is called non-payment of wages.

The employer should pay the fixed remuneration to the person engaged on the work either in the beginning of the work or middle or at the end.

If one is engaged in work without fixing any remuneration or engaged in the trade then one-tenth of profit, if engaged in live-stocks one-tenth of live-stocks increment and if engaged in farming then one-tenth of products should be given to the person so engaged.

The employer should make available all equipments necessary to complete the work to the worker and he should fix the remuneration of each work in the beginning. In the middle of the work no one should make more work to be done in any pretention.

If the employer forces to do a job within the specific time at all cost and if the person hired promises to complete it within the given time frame he should be paid two told of the remuneration.

The worker should complete the agreed work within the stipulated time otherwise he will not get the remuneration. If the job/work is to be left/give up, due to the fault of the employer, the employee shall be entitled to get his due based on quantum merit.

When a job of carrying the load by two persons is made on equal proportion of wages and if one of them leaves it on the way for any reason, he must give-up one-sixth of his wage. If the employer dismisses one of them he must pay the total wages, otherwise he has to pay the interest also.

If a porter carries goods improperly and causes loss, he will not get the wages; rather he will be liable to a fine twice of his wage.

If goods are destroyed by the fault of the porter it should be recovered from the porter except in the case of *force majeure*.

The remuneration for tending one hundred cows, which could be renewed every year, is the urine of cow, cow dung and all the milk of every eighth day and a yearling cow is to the cowherd. And for tending Two hundred cows, in addition to this a milch cow instead of yearling cow should be paid as remuneration.

The cowherd who looks after other's cows must drive the cows for graze every morning and bring them back in the evening after they have grazed and drunk.

It would be better if the cowherd protects the cow by himself from the attack of violent animal and disease etc. If he cannot follow it and it may cause loss of cow he has to promptly inform the owner.

If the cowherd cannot protect the cow, does not raises adequate voice to save from the attacks or wolves etc. and does not promptly inform the owner about the loss of cow then he shall be liable for the compensation for such loss. In such a case he is considered to be a criminal.

If a cow dies due to the insects born in the wounds without getting timely treatment, or dies by the beating of the herds or dies falling from the rock or slope or dies falling into the river and dies due to the negligence and without any effort of treatment, in such a case the herdsman shall be liable for the compensation of the cow.

One should give long hairs, tails of yak, nerves (Snayu), and Goulochan to the owner of the cow/cattle. If an animal dies an evidence of the dead of animal should be shown to the owner of the cattle.

If the goats and sheep are stopped in a particular place for sale and purchase and the wolf kills them by any means due to the negligence of the herdsman, he shall be responsible for such a loss.

When sheep, she goats and he goats are in the forest and grazing over there and if suddenly any of them is killed by a wolf, this is also regarded as the fault of the herdsman.

If the robbers directly challenge to take the goats or sheep from heard and warn to prevent from robbery; the herdsman has to request the robbers that these belong to so and so owner; and not to penalize him and if, even then, the robbers take ignoring him, in such case herdsman is not liable to pay the compensation.

These are the rules regarding herdsmen. If any animal dies, the herdsmen has to show the evidence to the owner then they will be relieved.

If a prostitute takes her fee and denies sex; she must repay two told of that fee and the same rule applies to the man who does not pay fee after he enjoys.

One who lives building a temporary house or hut in a land of any other person he should leave that place along with his belongings when the owner evicts him. He has to give up his belongings for a rent if he is living there from long time back. If one is resided by making house with the goods of land owner, in such case he should pay compensation or substitute the goods broken or damaged.

This is the end of sixth chapter on non-payment of remuneration.

Chapter on Sale Without Ownership

Property deposited as a *Naso* or someone's lost property being continuously attempted to get back or others property abducted by ownself; if it is sold in front of the owner, in short, that is called sale of goods without ownership (*aswamibikraya*).

If the goods of a person are sold against his/her will and found out later on by the owner, the owner shall have ownership on it; and the purchaser shall loose it. If it was purchased in front of the witness; the buyer shall not be proved a thief. If it was purchased in secret, the buyer shall be considered a thief.

The buyer who buys secretly at inappropriate time and in a low price from a servant without the permission of the owner and from an individual having wrong thought, in such a case the buyer shall be a guilty.

If the buyer tells all the truth of transaction of the goods regarding the time and source; such a person shall be proved innocent; otherwise the buyer shall be considered guilty as the seller and the buyer shall also be liable for punishment as good as the thief.

Therefore, both a slave made by other in the name of the owner without the owner and goods so sold shall be regarded as not made slave and not sold; this rule is prevalent in practice.

Similarly if any movable or immovable property is sold by anybody else other than the owner, the seller shall give the total price of such goods to the owner. The buyer shall also get equal amount as the owner and one has also to pay the revenue to government pursuant to the law.

One who finds any wealth buried (*Gaddhan*) by somebody else; it should be deposited to the state fund because all of the buried property and property from the mine goes to the state treasury except the property of a *Brahman*.

If someone finds his/her lost property, the owner shall inform it to the King when it was lost and found, before taking it. If it is done so that would be pure, otherwise it becomes impure.

Even the *Brahman*, who finds a mine or *Gaddhan* should immediately inform it to the king and he may take it if king gives it to him, if it is done otherwise he shall also be considered a thief.

This is the end of seventh chapter on Sale Without Ownership.

NEPAL LAW COMMISSION

Chapter on Non-delivery of Property

If the goods kept in the shop for sell are not delivered to the purchaser in consideration of its price that dispute is called non-delivery of goods after sale.

In the transaction of sales and purchases, movable and immovable, these two types of properties are brought in practice. All kinds of properties brought for sale and purchase are called monetary commodities (*Drabaya Panaya*).

The scholars say that there are six types of commodity transactions. They are (1) which are transacted by counting like- Nut and ivory cell (*Kaudi*) etc. (2) which are transacted by weighing like- gold, silver, drug etc. (3) which are transacted by measuring like- oil, Ghee and clothes etc. (4) which are given by watching the labour like- payment to the porter (5) which is based on the beauty like payment to the prostitute (6) Based on the splendorness (shining) such as stones.

If the seller fails to deliver the goods, from the shop, to the buyer after the sale; he has to compensate with interest and damage pertaining to immovable properties and with the remuneration or interest etc. pertaining to the movable property. If the value of sold goods is reduced to the half at the time of delivery to the buyer compared to the transacted period in such a case the seller must pay full compensation and interest. This is the rule of immovable property. If it is a movable property like cow or buffalo one has to pay the interest in the form of calves and milk.

If any sold movable or immovable property is lost, burned or stolen before delivery to the buyer, in such a case compensation thereof must be paid by the seller to the buyer.

If the seller shows qualitative item to the buyer and takes price from him and then cheats the purchaser delivering flawed-one (low quality) item, in such case the

seller shall pay the purchaser twice of its price and shall also be liable to a fine equal to such amount.

If the seller sells the commodity to someone or takes full price thereof and delivers the commodity to another person in such a case, seller shall be liable to pay twice of the price and shall also be liable to the equal amount of fine.

If the buyer does not collect (take) the commodity so purchased upon full payment even the seller so requests and if the seller sells it to anybody else; the seller shall be considered guilty if he/she does not return the cost to the first buyer. This is the rule on the commodity which is fully paid. If the buyer requests to hold property for him/her or not to sell to anybody else without making any payment, in such case if seller sells such property to anybody else; he/she shall not be considered to be a guilty.

The transaction of commodities by the merchant is for a profit. Such profit sometimes is bigger, sometimes it is less and sometime it is none; depending on situation. Therefore, a merchant should fix the price of the goods in accordance with the time and place; he should not be involved in a tricky transaction. If it is followed the path of trade would be easy and one can be trusted by everyone.

This is the end of chapter Eight on non-delivery of property.

Chapter on *Kritanushaya* (Reneging on a Purchases)

When a person does not respect any property purchased with full payment from a shop and feels cheated, in such case there may arise a dispute called *Kritwanushaya* (reneging on a purchase).

When the buyer finds any commodity purchased is wrong; it should be returned undamaged to the seller on the same day.

If the buyer returns it on second day of transaction it shall be returned reducing thirty percent of the purchased price and on the third day reducing sixty percent of the same. After third day, it shall depend on the will of the seller.

The buyer should examine the commodity for quality and defects before purchasing it. Goods so purchased may not be returned back to the shop keeper. That must be borne by the buyer.

The trial period for milch cattle is Three days. The trial period for horse etc. means of transportation is Five days. The trial period of pearls, diamonds and coral is seven days. The trial period for a man is Two week (15 days). The trial period of a woman is two times i.e. within thirty days. The trial period for all types of seeds is ten days. The trial period of metals and garments is one day.

A garment, which is ragged or caused dirty by the use of the purchaser, cannot be returned back to the shop keeper even if it may be faulty.

If a garment purchased from the shop is returned back washing once it losses one-eighth of its price. If it is washed twice it loses one-fourth of price. If it is washed three times it loses one-third of its price. If it is washed four times it would be half priced. After that, each time a garment is washed it loses one-fourth of its price. When boarder of a garment tatters then it is called rag. The rag garment may decay at anytime.

To make usable the pots of all metals must be forged again. While cleaning these pots of metals contacting with fire they incur a loss. Gold metal losses nothing, silver losses 2 percent and Laha and lead losses 8 percent and copper losses 5 percent. This rule is applied even to the pots made by the deformity of these metals. If pots are made by these metals mixing into one another or new metal emerges by the mixture of these metals so there is no such rule of loss for such mixed metals or pots.

Even in the goods prepared by thread, there is either a loss or gain in cleaning. For the commodity to be prepared by spun cotton and wool there is a gain of 10%. For materials prepared by coarse thread there is a gain of 5 pal in the weight of the thread. For the goods prepared by fine thread there is 2 pal more weight than the weight of the thread. For readymade goods prepared by hair there is a loss of one-thirtieth than the weight of thread. For goods prepared by the nest of insects and goods prepared by the thread of the bark such as jute etc. there shall be equal weight to that of the weight of the thread. There is neither loss nor gain.

In the transaction of selling commodity, a quality trader should not renege on the sold and purchased commodities. He should know their potential gain or loss and their provenance as well.

This is the end ninth chapter on *Kritanushaya* (Reneging on a Purchases).

Chapter on *Samayasayamapakarma* (non-observance of convention)

The rule settled by the heretics and the merchants in group to govern their transaction is called Samaya (conventions). If it is violated it is called non-observance of conventions under the title of dispute.

The king must cause to abide by properly the promises or principles made by heretics and merchants in their group in the border and forts of the country for their progress and religious duties; rules for worship, employment and mode of livelihood of the members of these groups must be approved by the king.

The king must prevent the members of the group from the matters which are against the king, unwanted to the people and cause hindrance in the financial resources. If any organized group causes to loss to each other forming their own confederacies and raise weapons or destroy one another they must be removed from there. Their activities must not be tolerated.

The mean persons who create disharmony among the individuals or who work in an organized form, the king should punish them severely. If they are ignored in time they will create a great fear like the disease ignored and not treated in time. If a wrong activity, not prescribed by the scriptures as a duty, is going to be committed or is committed in the company, a king even who was his ultimate good must prevent such activities.

The king who wants his ultimate good should stop those faulty activities even prevailed in the society if they are not backed by the *Shastras* (Scriptures).

This is the end Tenth chapter on *Samayasayamapakarma* (non-observance of convention).

Chapter on *Kchhetraseemabibad* (Land Boundary Disputes)

The dispute pertaining to bridge and unsettled boundaries of agricultural fields is called land disputes.

The conflicts relating to territorial border of the states or boundary of agricultural field must be determined by the local heads. The society should determine the boundaries through the medium of the creditors of main city, head of the village, creditors of organized bodies, dignitaries and the elders.

In the boundary disputes of rural area, the farmers, cowherds, bird hunters and others who inhabit in the forest or who live outside the disputed area are to be told the features of disputed area and they may predict that territory based on such features. Border and boundary should be demarcated by husk, charcoal, broken pieces of clay jar, well, trees like planted for decoration in the garden of the house, foundations of houses, and high and low land where ants make hills etc. Boundary and border should be marked by the paddy-field, roads, old bridges or dams and parts of lands left by river through flood etc.

In a case of the fields where original markers have been carried off by rivers and having no reminders, the boundaries and borders should be determined based on conjecture about that place and original previous evidence of possession.

If it is proved that the local heads testified falsely or acted wrongly in the determination of boundary or border, in such a case, the king should punish every one with a middle range penalty (*Madhayam-Sahasa-danda*). If the senior citizens of the country who are considered to be authentic on the land etc. speak false, each of them should be punished with first-grade punishment (*Prathama-Sahasa-Danda*).

Even the individuals who have actual information should not delineate the boundary and border personally. Because this is a very important work and its responsibility should be in many more persons. If one person has to delineate the boundary he must take a fast, have to be careful, put on a red garland and garment and place a bit of soil on his head.

If it lacks knowledgeable persons about the boundary or it could not be found or a trace which was the feature of the land; then the king himself should set the boundary at his will in front of the litigants. They have to regard it authentic.

This rule should be applied to the disputes relating to the houses, gardens, reservoirs (*Panighat*) and vicinity lands and to delineate the boundaries between the villages.

Crossroad, temple of God, road and path must not be obstructed by the ditch and drainage flowing dirty water etc. of villages and towns.

A channel and embankment dam through other's field could not be prohibited at the time of crisis due to scarcity of grains, essential goods like food in the villages, towns or the nation as a whole. But the channel and embankment (dam) should cause minimum loss to the land owner and it should be more beneficial to the owner and very much essential to a large number of people.

There are two types of dams – (1) *Kheya*, which is dug out to run the water (2) *Badhaya* which is built to control the excessive water.

Without water, food grain would be decayed and, it is ruined by too much of water. Therefore, it is regarded that the paucity and excessive water is harmful.

If someone wants to renovate or renew the dam, bridge or channel which is being used since the past to the date or which is about to be fallen conditions he has to seek permission of the owner. Otherwise he will get nothing out of it.

After the death of the owner of the bridge, dam or channel his son or heir shall be the owner. If there is no owner of it one can renovate it with the permission of the king.

Otherwise his efforts and resource would go for waste as the same mistake as a hunter who wastes his arrows by shooting an animal that is already been shot by someone else.

As learned people say that "the land is called *Prithwi* because she is taken care of by the king *Priththu*." Similarly other kings and people also take care, so it is called that *Prithwi* is a suitable wife for taking care. Therefore, who prepares paddy field digging out the roots and stems of the trees that field belongs to him, and one who throws the arrows to shoot an animal that belongs to him. If the owner of the field is incapacitated or dead or disappeared, the person who cultivates the field unchallenged can enjoy the products of that field.

If the disappeared owner of the field returns surprisingly while the field is being cultivated, the owner is entitled to cultivate his land upon paying the cost invested on it.

If the owner of the land disappears for a period of seven years and returns in the eighth year he could resume originally possessed land by giving one-eighth of land to the cultivator.

A field which is not cultivated (*Banjho*) for one year it is regarded as the half barren land. Uncultivated for three years is regarded completely barren. If it is not cultivated for five consecutive years such a land is regarded as good as jungle.

If a field or house is possessed for three generations continuously then no one can claim it at any rate except by the order of the king.

When the grain planted within a fence is destroyed by cows and she-buffalos etc. jumping over the fence and if the herdsman does not try to prevent these animals

from destroying the grain then such herdsmen shall be liable for penalty or compensation.

If a he-buffalo, he-goat, horse, elephant and cow within ten days of giving birth destroy the grain crossing through the fence they should be removed from there by the efforts of the land owner. Their owner shall not be liable for penalty.

Lands close to any village or a special type of meadow or a main road which is not fenced but cultivated and if the crops on such a land are destroyed by any animal, the herdsman shall not be liable.

For the protection of grain planted in the field close to the road, one should build such a fence so that a camel could not see over it, animal like cows and horses could not jump over it and a wild pig could not break it.

If a cow destroys the grain, one should be liable for one-fourth (1/4) penalty. If she-buffalo destroys, penalty shall be twice of it. If goats, sheep and calves destroy the grain there should be one-fourth penalty.

If the grain is destroyed by an elephant or a horse their owners should not be penalized because these animals are considered to be the protectors of the people. A pregnant cow and a characterless woman who has just given birth to a baby shall also not be penalized.

If a cow or she-buffalo breaks fence and graze the grain with full stomach and stay there then its owner should be fined twice. If it stays whole night grazing the grain in a hungry condition then the owner should be fined four times. If the herdsman knowingly breaks the fence and make grazing in another's paddies and the fields then he should be punished as if he were a thief.

If a cow or she buffalo escapes due to the fault of the herdsman and destroys the paddy field, in such a case the herdsman shall be punished instead of the owner of those animals.

If the herdsman is arrested by the king's police or lightning hits him or a snake bites him or he falls from a tree, and the cows and she-buffalos damage other's paddy field, on such time; in such a situation the owner should bring back his cows and she-buffalos paying compensation to the owner (farmer) of field.

The farmer who wants the grain in lieu of or damage caused by a cow, the ruler should compensate him from the owner of the animal with the permission of the Samanta (local head).

One who digs out the roots and stems of the tree shall be entitled to that land and one who takes the arrows shall own the hunted animal. One who shoots arrows to an already shot animal he will waste his arrows.

If the field of a incapacitated, dead or disappeared owner is cultivated by any other person without interference and if by that time owner appears such land shall be cultivated by the owner.

The house and field are the means of livelihood of the people who have family. Therefore, the king should not interfere in the house and field of the people. This is the foundation of the family.

When the country prospers, the treasury of the king and *Dharma* also prospers. When the territory of the country decreases the *Dharma* and treasury of the king also decreases. Therefore, the king should spend property in *Dharma* prospering activities.

This is the end of the chapter on *Kchhetraseemabibad* (Land Boundary Disputes).

Chapter on disputes called *Stripunsayog* (Man-Woman Relationship)

The rules of marriage which is for a man and a woman are called *Stri-purus-yoga* (relationship between men and women). That relationship between a man and a woman is dealt here in a case of any dispute.

Before the relationship of a woman and a man, there is a rule of mutual *Varan* (accepting each other). It means a man has to accept the woman and a woman to a man. It is better to be a husband and wife after getting married upon performing rituals rather than merely accepting each other; because the conjugal relationship made merely through the choice is irregular because there are found many faults in it. A woman really becomes a better half or gets wifehood when *Mantras* are recited at the time of marriage.

It is better to have a wife of the same *Varna* for a man of these four *Varna* – *Brahman*, *Kshatriya*, *Vaisya* and *Sudra*. Likewise for the woman also it is better to have a husband of the same *Barna*.

For a Brahman in addition to a woman of his own *Barna* women of *Kshatriya*, *Vaisya* and *Sudra* may also be a wife. For a maiden of *Sudra* in addition to a man of her own caste a man of *Vaisya*, *Kshatriya* and *Brahman* may be a husband.

For a *Kshatriya*, in addition to his same *Varna* wife, there may be two other wives of *Vaisya* and *Sudra* *Barna*. For *Vaisya* in addition to a wife of his own *Varna* there may be a wife from *Sudra* *Barna*. For a maiden of *Vaisya* in addition to her own *Varna* she may have husband from a *Brahman* or *Kshatriya* *Varna*. For a maiden of *Kshatriya* *Varna* in addition to her own *Varna* a *Brahman* may also be a husband.

A marriage is prohibited in a relationship within seven degrees of relationship of one's father side and five degrees of one's mother side and in the same Gotra and same Pravara.

Persons of the side of a maiden should proceed match-making only after examining a man whether or not he has virility by his congenital physical characteristics. One is eligible to marry a maiden if his virility is ascertained without doubt.

A man with a characteristics that whose nape bone which links the neck and shoulder including other organs such as torso and neck are tough (well built), whose nose is high, tongue is thin; who has a strong movement, smooth voice and whose semen do not float on water, whose urine is noisy and foamy he is Purus; and who does not have these qualities he is impotent to have sexual intercourse.

Scholars have mentioned in the Shastra that there are fourteen kinds of impotent. Some of them are curable by medical treatment and some are not cured. Their features are described here respectively. Some are impotent by nature they are called Nisargasanda (castrated). Some control the flow of semen tying penis by a rope of soft skin by which they do not have children on time; or they are unable to have children all the time; they are called Vadarasanda (sterile). Some persons do not have power to have sex with a woman for sometimes due to the curse caused by his respectable persons or disease or anger of the God or due to any other reason; they are called Pakchayasanda (fortnightly impotent). One who is impotent due to jealous, a homosexual, a person with windy semen, semen which is carried off by the wind instead of being deposited in to the vagina and whose penis is wounded in the front part and whose semen has been dried by Abhichar (invisible force), one who is Meghabiji (do not get children even having sex) and one who is shy for a sex is also a impotent.

Among them, fortnightly impotent could be cured by the treatment and should also be treated. The period of *Irshasanda* is only for a year. Thereafter, he can obtain the potent. The other four impotents homosexual, windy semen, *Mukhebhaga* and *Aakshiptabiji* (one whose semen is dried up by some invisible force) and a wife who has no vagina at the time of birth and who gains vagina later on by treatment are abandon-able like outcasts. A wife who gets an impotent husband called *Aakshiptabiji* and *Modhayabiji* (one who is sterile) should wait for a period of one year engaging one's husband in the treatment to remove impotency. If it is not cured within that period she should abandon him and marry with another man.

When the youth wife of a shy husband meets in a lonely place his penis does not act. In this case the wife should endeavor to remove her husband's mental weaknesses, if she could not conceive a child the husband should be treated.

If a slave conceals the fact of being a slave and engages in to the marriage with a woman; in such a case she may marry with another husband after the disclosure of the fact. This is the principle of *Prajapati*.

The creation of women is for the sake of offspring. Therefore, they are like the *Kshetra* (field). A field should be given to one who has seed. An individual without seed is not capable of holding the field.

The father should do *Kanayadan* (to give the girl) in person or it may be done by her brother with the consent of the father. If they are not there, girl should be given by her mother's father (grand father from maternal side). If he is not there a girl should be given by maternal uncle or maternal relatives. If mother is there, a girl should be given by herself personally. If the mother is ill, any one of her caste shall have right to give a girl.

If a virgin without any guardian is curious for her marriage, she should directly request to the king and tell her condition. Thereafter, to whom the king approves of her selection she herself may choose a husband for herself.

A man who is selected for marriage should be of the same caste and suitable from the standpoint of age and family as well as he should be a learned person. She should get marry with such individual and live with him as a better half (*Sahabharmini*) and give birth.

If a man formally accepts a girl and leaves the country; in such a case she should wait for three menstrual periods for him. Thereafter, she can marry with another man.

A girl should inform about her menstruation to her relatives and tell about their duty to arrange for her marriage etc. Even then, if the relatives do not be ready (for her marriage) then they all are just like the embryo killers as many times as her menstruation.

Therefore, a father must arrange for his daughter's marriage rituals before her first menstrual. Otherwise he incurs a great sin. This is the marriage rule of daughter propounded by *Shastra*.

Partition of inheritance, marriage of a daughter and promise to give anything is done only once by the virtuous people. They are not repeated.

God Soma would see a girl once her special characteristics have made their appearance. A *Gandharva* would see her once she develops breasts. *Agni* would see once she gets her menstruation. Therefore, a father should arrange marriage of his daughter before her special characteristics have made their appearances, before she menstruates, before she develops the breasts, and before *Soma* and others see her.

These rules are applied in *Brahma*, *Prajaptya*, *Arsha*, *Daiba* and *Gandharba*, five forms of marriages, out of eight forms of marriage. In *Asur*, *Rakshasa*, *Paishacha*, three forms of marriage, the girl will make a self choice depending on the qualities of the groom.

If there is a practice of bride- price from bride-groom for a marriage, and one obtains bride-price from a man and a more virtuous and wealthy man is found for that girl, one may tell lie without damaging three virile such as Karma, wealth and desire.

One should not defame an innocent girl with a jealous and mala fide intention of creating propaganda bad saying she has such and such defects. Similarly, never try to establish untrue defects in to the innocent bridegroom. If there are real defects either in the bride or in the groom then there is no sin if they give up one another.

A man, who does not send his girl, after her marriage to the house of the groom, rather makes her staying in his own house; even if the groom is not defective, in such a case, the king should punish the father of the girl.

One who causes the marriage of a faulty girl without telling the faults, then such man should be punished by the king.

If a man, out of malice from the side of groom, causes marriage without showing the faults of the boys saying “this is girl to a boy or an impotent” then such man must get sever punishment.

If a man accepts a girl for marriage who is faultless and denies her later on, he too should be punished and even if he does not want to marry he must marry her.

Vile disease not cured since long time, deformity, evidence of having intercourse with another man, brazenness, emotional attachment with another man are the defects of a girl.

To be insane, and outcaste, impotent, unlucky, abandoned by the brothers and other relatives, afflicted with a vile disease since long time and deformity-these are the defects of a groom.

There are eight forms marriages in the sacrament, for these four Brahman, Khatriya, Vaishya and Sudra Barnas. Among them Brahma is the first type of

marriage. The second is the Prajapatya marriage. The third one is Arsa marriage and the fourth is Daiva marriage. The fifth one is Gandharva marriage, the sixth is Asura marriage, the seventh is Rakshasa marriage and the eight one is paisacha marriage.

Among them, in the Brahma form of marriage, one should invite the groom, receive him honourably and give him the girl covered with ornaments with some rules. In Prajapatya form of marriage the groom is brought to a sacrificing place or temple and both are told that now on they are husband and wife and they have to perform religious duties and all other important works of their life together with. To bring a girl at one's house giving cow and bull to the father of the girl and then marry with her is called Arsa marriage. In Daiva form of marriage a girl covered with ornaments is brought in a sacrificial enclosure (Yagguvedi) and the girl is handed over to a priest saying that he is giving his girl to him from today. In Gandharva form of marriage the girl and the groom loving each other mutually seek one another and are united by the rules as they have chosen. In the Aasura form of marriage bride-price is paid to the chief of the family of the girl's side and marriage is concluded. In a Rakshasa marriage girl is brought in the house of the groom using force and then marriage is performed with her. In a paishacha form of marriage the girl is abducted while she is asleep or unconscious by consuming any alcoholic substance. This is the lowest form of marriage out of those eight forms of marriages.

Out of these marriages, the first four beginning with the Brahma form are proclaimed to be righteous forms of marriages. The Gandharva form of marriage is an ordinary form of marriage; Asura etc. other three forms of marriages are against the dharma.

There are seven types of women who maintain relationship with more than one man. Three of them are called Punarbhū (Remarried woman) and four are Swairini (a loose woman).

The first type of Punarbhū is called a woman who does not have sexual relationship who has only get married and who lives some where else abandoning the husband. Such woman may have the Sanskar (sacrament) again. If a woman who has got married with a younger husband than herself makes relationship with another man and then returns to her husband is the second type of Punarbhū. After the death of husband, if a woman without a brother-in-law is caused to get marriage with her relatives to mean with a man of same caste and sapindi, that is the third type of Punarbhū.

The first type of Swairini is a woman whose husband is still alive but who has no children or who is incompetent to give birth and engages in sexual relationship for satisfaction. After the death of her husband when a widow rejects her brothers-in-law who is ready to marry her and marry with someone else out of passion is called the second type of swairini. If a visitor in a foreign country or who is purchased by the wealth or who is suffering from hunger and thirst and who comes forward to a desired man and request to him to accept her she is called the third type of Swairini.

A woman who is given to her relatives by her guardians considering the place and Dharma if she courageously surrenders to a man whom she loves in such a case she is the fourth type of Swairini.

Out of these four Swairinis, Swairinis discussed earlier are condemnable and discussed latter on are better ones. Alternatives should be thought by their offspring in the matters of funerary (Pinda Tarpan) and similar offerings.

This rule has been proclaimed for Swairinis who have got married to the second or third times. Among them previous one is considered condemnable and the successive one is better.

Out of these women, if someone is brought by paying a fee to her husband by a person who does not have children, then, their children belong to those who have paid the fees. The woman who is brought without paying such fee, her children belongs to her husband and does not belong to one who has taken her later.

When seed is sown in the field without the knowledge of the owner of the field, the owner of the seed has no share in the crop, it belongs to the owner of the field alone; similarly, if someone makes pregnant to some other's wife without the knowledge of the husband, the children born by her belong to her husband and do not belong to one who impregnated her. When the seed is carried out by the flow of water or puff of wind and grows in whoever's field the crop belongs to the owner of the field not to the flow of water and puff of wind.

When a mature bull makes pregnant to the a cow grazing close to its place and such a cow breeds calves, in such a case the calves belong to the owner of the cows. The bull's semen (Birya) flowed here is useless.

If seed is cast on a field with the consent of the owner i.e. if another man breeds children, after taking permission of the woman's husband then the children belong to both fathers.

Without a field there would be no crop and without seed also there would be no crop. As the both are required to produce crop like that to breed children both of the mother and father's seed is required; so in the eye of Dharma children belong to both the father and mother.

When a husband goes to trace out his wife in any other's house for his wife could not be found at home and the husband sees her with another man having intercourse; it is called Sangrahan (adultery).

If a person who enters into sexual relationship with a woman who is abandoned by an out-casted husband without her fault, or whose husband is impotent, suffering from tuberculosis, in a condition that she has offered for sexual relationship, in such a case person shall not be liable for such act.

When a man meets some other's wife secretly, at an improper time and in an inappropriate place and stays, converses and jokes with her – all these three activities should be taken as the crime of Sangrahan (adultery).

When a man and a woman meet at the confluence of rivers, holy places, in parks/gardens and in the forests and make secret conversations then that may be taken as a Sangrahan (adultery).

When a man touches a woman in her sexually sensitive body parts and when the woman allows herself to be touched, it is known that they are doing this by their mutual consent, and all that is considered Sangrahan (adultery).

To offer help each other by the man and a woman, to be involved in joyful activities, to touch the garments and ornaments and to sit on the same bed and similar activities are considered Sangrahan (adultery).

When a man and woman send different food items, garments, garlands and fragrances each other then that is also considered adultery.

When a man and a woman out of vanity or love or appreciation declare themselves they have engaged in the intercourse then this is also adultery.

When a man catches a woman in the hand or in the braid or in the side of the garment or says 'wait-wait' then all that is considered adultery.

If a man has intercourse with a woman other than his fellow-caste he should be punished with the Uttam Shasah (lowest fine). One who has intercourse with a woman upper than his caste he is liable for the death penalty.

If a man commits sexual intercourse with a virgin who had no passion for sex he must be punished by two fingers cut off. If a man commits sexual intercourse with an upper caste woman who had no passion for sex, he must get death penalty and his entire property must be confiscated.

If a man has sexual intercourse with a woman of his own caste who had passion of sex there is no fault. He must marry that girl covering with the ornaments and with all decorum.

Mother, mother's sister, mother-in-law, maternal uncle's wife, father's sister, the wife of a paternal uncle (aunt), the wife of a Shisaya (student), own sister, sister's friend, daughter-in-law, daughter, wife of the Guru (teacher), wife of an elder brother, a woman of same Gotra, a woman in protection, a queen, a female renounce/nun, a wet nurse (a lady who feeds breast), a woman who is faithful to her husband (woman having chastity) and a woman of a higher caste all these are considered Gurutalpa. One who goes with any of these women that are called Gurutalpagami. Shashtra has proclaimed only one punishment for such man who indulges sex with such woman that is the cutting off his genital. There is no other punishment for it.

If a man commits sexual intercourse with an animal breaching the decorum he should be fined one hundred pana. If one goes with the cow, or a Chandal (very low caste woman) he shall be liable for middle range penalty.

The penalty imposed by the king gives education to those who commit intercourse with a woman who is forbidden. To cause to a Prayaschit (penance) is to liberate from the sin.

One may have sexual relation with a woman who is not under the control of anyone, a prostitute, a female slave, one who is abandoned by her husband and a lower caste woman except Brahman woman. One should not have intercourse with the said types of women who belong to higher caste.

One shall not have sexual intercourse with a maid servant who is in such condition; if it is done so it is considered as fault; just like having intercourse with other's wife. Even though the female slaves and maid servants may be contacted for sex, they should not be approached for sexual intercourse if they are the wives of other men.

If husband of a woman has died without children and if her guardians: such as father-in-law or mother-in-law instigate her to have a child from her brother-in-law, she may go with her brother-in-law only for the child.

A brother-in-law shall also accept the wife of the elder brother who comes in such *Dharmasankat* (crisis) until a child is born at her *Ritukat*. One must stop it as soon as a child is born otherwise he would be a *patit* (outcaste).

When a brother-in-law is compelled to have sexual intercourse with the wife of his elder brother, he should be anointed by the clarified butter or non-perfumed oil in his body before the contact. In such act he should not touch her other body parts except touching mouth to mouth and sexual organ.

A man should not have intercourse with Seven types of women they are: a woman who has a son, who is respectable, one who has no sexual passion, one who does not consent to have a sexual intercourse with him, one who is pregnant, one who commits condemnable works, one who is not permitted by her guardian or relative for intercourse.

A woman who gives birth of a child by her brother-in-law, who is permitted by the guardians to intercourse with her, people who interpret *Dharma* say that her son is born by the *jar* (other man) therefore, such a child is not entitled to inherit.

If younger brother, goes for intercourse to the wife of his elder brother or if an elder brother goes for intercourse to the wife of his younger brother without the permission of the guardians or relatives; both of them are considered *Gurutalpagami patit* (incestuous outcaste).

If one does not have children and he becomes the last person of his generation and if the respectable people permit him to cause a child from the wife of the younger brother then he may go to the wife of his younger brother only for the sake of offspring but not to meet his sexual passion.

If the family is going to decline and if there are no any senior guardians who may permit for intercourse for children then the younger brother or elder brother may go for sexual relationship to the wife of his elder brother or younger brother only after taking an order of the king.

One should once cause to conceive a baby in the women (wife of the elder brother or younger brother) only after having ritual bath after their menstruation upon following the rules stated earlier. Unless a woman conceives a baby he must have relation with her time to time in the *ritukal*; after she becomes pregnant both the man and woman should live in their own rule.

If a man and woman enter into intercourse being motivated by passion except in a way what has been proclaimed here such a woman and man should be severely punished by the king. If the king fails to punish; the king himself shall be proved criminal, he will go to the hell and Dharma and order shall be declined.

If a relationship of love is raised from any other's jealousy and envy in such a case the concerned man and woman are considered the criminals and the relatives or king shall not be condemned.

Without being unfaithful in seclusion by a woman, if a husband or wife abandons his or her spouse being against for other, then, it is a crime by one whom so abandons.

If a women is unfaithful she should be shaved and cause her to sleep on a bed on the floor, prohibit her to sleep on the *palang*, and give her bad food and clothes and assign her the task of removing waste and dirt.

One who violates stri-dharma or attempts for her abortion or who conspires to kill her husband should be caused to banish from the house.

A wise husband should banish the wife who always creates criminal conspiracy or speaks unpleasant matters or eats before the husband.

One should not pay full respect (Abhinandan) from sexual stand point to the wife who is barren, gives birth only the female children, of ill-repute and one who always acts against her husband; in such case the husband shall not be guilty.

If a man who deserts his wife who works in favour of her husband, who never speaks unpleasant matters, who is skillful in the household activities, who is faithful to her husband and has given birth of children, the king should impose severe punishment to force him to resume his responsibilities.

If a girl of a far distance relation or of the same Gotra is married to a man without knowledge of the cause of prohibition or marriage from jurisprudential stand points and if it reveals later on in such a case, if she is innocent and has not married to another man then that woman should be taken to the house of her husband by her brothers and relatives. If relatives are not there, she herself may go to the husband's house and convince him and stay over there.

These are five types of catastrophes where there is a rule to select another husband by the women they are : If the husband goes abroad leaving her alone, dies, goes for a world renunciation, becomes impotent and becomes an outcaste.

A Brahman female should wait eight years for her husband who has gone away. If one has no children and has gone abroad his wife has to wait him only four years. Thereafter, she may have another husband.

A woman who is born in the Kshatriya kul (family) she should wait six years for her husband who has gone away. If he has gone far away not having a child then three years of waiting is sufficient. A woman who has a child and who is born in

Vaisya family she should wait for four years and she should wait for two years if she does not have child.

The Shastra has not prescribed any waiting period for a woman who is born in the Sudra kul (family) after abandoning her by her husband. To accept another husband after being deserted by the earlier husband is not considered a breach of Dharma. Particularly for a woman who has no children the longest waiting period is settled for one year.

The waiting period for a woman is the same whose husband has gone away and there is no exchange of letters or informations. If there is continuation of letters or other communications are regular such a waiting period shall be double respectively.

The women are the sources of creation; if they have to spend their lives waiting for a husband it may breach the rule creation of Brahmajee. Therefore, after the prescribed period if a woman enters into next marriage it shall not be considered her fault.

To produce children by a man of comparatively higher caste to a woman of lower caste is set rule of Shastra or is the rule of Anulomabidhi (approved marriages). To produce children by a man to a woman higher than his caste is Pratilombidhi, the child born by Pratilombidhi is known as Barnasankar.

Both types of sons of Anuloma (approved) and Pratiloma (unapproved) marriages are of three types; they are: - first degree, second degree and third degree sons.

Children born to the Sudras women with the men of highest castes i.e. Brahmans, Khatriyas and Vaishya are called Ugra, Parasava and Nisad respectively, i.e. the son born to a Sudra woman by a Brahman is called Ugra, by Khatriya the Parashava and by a Vaisya the Nisad. These became the Anuloma children (from approved marriage).

The Pratiloma children (from unapproved marriages) are the son born to a Brahmana female by a Sudra is called Chandala, by a Vaisya the Suta and by a Khatriya the Parashava. These are the Pratiloma children (from unapproved marriage).

A child born to a Kshatriya woman by a Brahman is called Ambastha. A child born to a Kshatriya woman by a Vaishya is called Maagadha. A child born to a Kshatriya woman by Sudra is called Kchhataya (Sarathi). Among them the first type of child is Anuloma and rest of two types of children are of pratiloma.

A son born to a Vaishya woman by a Sudra is called Ambastha. A son born to a Vaishya woman by a Brahman is called Yawana. A son born to a Vaishya woman by a Kshatiya is called Aayogawaana. Among these three types of children the third Aayogawaana is a Pratiloma (from unapproved marriage). Rest of two Ambastha and Yawana are Anuloma children (from approved marriages).

Children born to lower caste women by the higher caste men are called Pratilomaja. The Shwapaka and similar children are Barnashankar (mixed castes). They form twenty one groups.

A child born to Brahman female by a Brahman male is the Sabarna (same caste). A child born to Kshatriya female by a Brahman is called Anantara Ambashta. A child born to a Vaishya female by a Brahman is called Ugra.

A child given birth by a Vaishya female with a Brahman becomes the second degree Eakantar Dousshanta child. A child born by a Sudra woman with Kshatriya becomes Nishada.

A Sudra woman gives birth the third degree Parashawa child by a Brahman, i.e. child born by a Bhrahman with a Sudra female is called the third degree Parashawa.

These are the children of Anuloma (approved marriages) of all castes. One who is born by a Khatriya female with a Brahman is called the first degree, by a Vaishya female is the second degree and born by a Sudra female with a Brahman is called the third degree. And in Pratiloma (unapproved marriages) one who is born by a Vaishya female with a Sudra becomes the first degree, born by a Khatriya female the second degree and born by a Brahman female with a Sudra becomes the third degree.

Suta, Maagad and Aayogawan, these three types of children are Pratiloma (from unapproved marriage) they are born by a higher caste woman with a man of low caste and the children described here in after are also the same (Pratiloma).

A Brahman female gives birth second degree child with a Vaishya man is called Vaidehaka. A Khatriya caste woman give birth a second degree child by a Sudra called Kshatta.

Where Brahman female is attracted to a Sudra man and gives birth by that Sudra such a sinful Barnashankar, third degree child of Pratiloma (unapproved marriage) is called Chandala.

Therefore, the king must protect particularly the women to save the society against Barnashankar (mixture of castes).

This is the end of Chapter on disputes called *Stripunsayog* (Man-Woman Relationship).

Chapter on dispute relating to partition of inheritance

When sons proceed to partition of the paternal moveable and immovable properties, it is called partition of inheritance (dayabhaga). The scholars have described that the issues relating to partition as the dispute of partition of inheritance (dayabhagaiavadpada).

After the death of the father, sons are entitled to partition the property of their father. After the death of the mother daughters shall have right on their woman's property and if daughters are no more their offsprings are entitled on such property.

Sons may partition their father's property when the mother has ceased to menstruate, when all the sisters are married and when father is still alive but has no longer desire on property in his life time. Father should divide his property among sons in his life time. May give Jethabhag (separate portion) to the eldest one, or divide equally to all at his will.

Whatever is done, the elder brother is as good as the father. If the younger brother is competent then he should take the best portion because the property of the family is attracted towards the power.

In addition to property given by the father as a gift (nigaha) these three types of properties are not subject to partition: property acquired by own valour, personal property (Pewa) of his wife and education as a wealth.

The personal property (niji Pewadhan) given by a mother out of affection to any son is not be divided. Because mother is also as equal as the father, it means there is exclusive freedom of a mother in her own property.

The property what is given in front of the fire (adsayagni), the property given to the daughter by her father at the end of marriage ceremony, property given by her husband to make it a private property, property received by a woman from her

brothers, property given by her mother and property given by her father, these six types of properties are woman's property (stridhan).

The said types of properties of the women who married through the rule of Brahma, Prajaptya, Arsha and Daiva marriages shall go to their children after her death. If there is no offspring then it shall go to her husband. The properties of a woman who married through the rest four types of rules of Gandharwa, Aashra, Rakshasa and Paishacah marriages their property shall be received by their father.

If a brother supports his brother's family while a brother pursues for education, he deserves a share of the gains out of that education even though he himself might be an uneducated.

Among the coparcenaries brother if any one brother is learned and has acquired property out of his qualification without relying on paternal property and if he does not want to divide that property among other brothers he need not give his such property to his brothers.

If a father himself divides his property he should keep two equal shares so divided to him. After the death of the husband his wife (the mother of sons) should get an equal share as equal as her sons.

When making partition of inheritance, the eldest son shall receive an extra share, the son who is best to him shall receive a little bit more share and the other sons and unmarried sisters (daughters) shall get equal shares.

A child born by the levitate union (Niyog) in accordance with dharmashastra through the wife of the brothers, relatives and any other person is called Ksatraja.

The sons born from other's wife with the approval of Dharma shall get partition on inheritance as mentioned here in above. The sons born from a married woman of lower caste should be provided their shares in diminished proportion.

Even if the father gives a little bit unequal share in the inheritance property, the sons must be satisfied because that is the Dharma, and father deserves sovereignty to all the sons.

A son given birth by an unmarried girl, a son born by a woman who was pregnant at the time of her marriage or a son born from an eloping woman must be taken care of by the father. All of them shall get share on his father's property.

A son given birth by an unmarried mother and whose father is unknown should follow his maternal grandfather and receive share upon offering last rites.

The sons born to a woman who was not appointed by her guardians to give birth of a child, whether she was with one man or many, they do not get the share. They are the off springs of those who beget them.

One whose mother is brought by his father paying price or favour (adultery charge), he must offer the funeral rites of that father who is his begetter. A son who is born by a mother who is brought without paying the fee, he should not offer the funeral rites to his begetter. He should offer the funeral offerings of one who had taken care of him.

The sons who hate their father, who are outcaste by their own bad work, impotent and born by someone else do not get the share of partition even though they are in the same caste. There is no question to achieve the share by them who took birth by other's wife.

If children are born in a family who are afflicted with serious illness, dumb, insane, blindness and crippled, they must be given their maintenance. Their children are coparceners.

The children should make the funeral offerings of their natural and adoptive fathers separately and they should receive a half share from the both.

The coparcener brothers living in a joint family should have their partition share what is their due. If some one does not have children that are to be considered seriously because if share is given to a man who does not have reproductive power that may go somewhere else.

Out of many brothers, if someone dies without a child or becomes renounce of the world then the rest of the brothers may take his share except woman's property of his wife.

One who takes the property of the brother in such a condition he should manage for maintenance for his wife so long as she lives and remains faithful to her deceased husband.

If the said type or world renounced (sanyasi) brother has only daughters then their father's share should be used to support them until they get marriage. After they get marriage their husbands should provide their maintenance.

For a woman whose husband dies without having a child, elder brother and younger brother of her husband are guardian (prabhu); they have all the authority whether to or not to appoint for niyog and to provide for her maintenance and security.

If the husband's family is extinct, there is no man to resort there, and if there are no relatives and Sapinda; then such woman should resort to her father's family, they are her guardians.

If no one is there in her husband and maternal side, she should be taken care of by the King, as it is so mentioned in Shastra. The king should manage for her maintenances and should punish if she becomes immoral (Patit).

Absolute liberty may badly damage the woman even they may have born in a good family; therefore Brhamajee has made rule for women that they should not have absolute liberty.

Women are protected by their fathers before their marriage, when they are young they are protected by the husband and when they are widows they are protected by their son; she should live under their protection. Women are quite unfit to be so independent.

Coparceners should, at the outset, pay debt taken by their father before the partition of his estate; father should not remain a debtor.

If the father has not caused to perform marriage and Vratibandha (putting holy thread) and other prescribed sacrament of some of his sons; their sacraments should be performed respectively out of the paternal property.

If there lacks paternal property, the brothers already performed sacrament shall put their property from their share in the sacrament of the brothers who still has to perform those functions.

If one of the courageous brothers intends to undertake any industrious activity to take care of the family (Poshayabarga), in such a case the other brothers should promote his ambition giving him food, clothing and vehicles as per their capacity.

If there is doubt whether or not the Dharma (righteous) is properly followed in the course of partition of inheritance then other relatives should keep separate written statement in addition to partition of inheritance deed in accordance with the decision of the coparceners.

Until the brothers enter into partition of inheritance, the religious activities like Devakarya (God related activities) and Pitrikarya (activity relating to ancestors) are to be performed in a single place. After partition such activities may be performed separately. Transactions and activities like giving and receiving of gifts, animals, grains, houses and land and worship of God, cooking, offerings for deceased, sacrifice of animal, Vaishwadeva, religious observances, earning and spending are done individually by the brothers who have enter into partition.

The brothers of a jointly family may not act as a witness and give surety for one another and give and receive debt from one another, but they are competent to do this after partition.

The coparcener brothers who engage themselves as a witness or give surety or in other similar acts mentioned here-in-above, in such a case the other people may presume that they have performed partition of inheritance-deed between them even if it is not so done.

If the children born from one father adopt different religions and professions, certainly, there could not be one opinion of the duties and works to be performed by these children because they are qualified in different occupations and qualities. They are entitled to gift, sell or otherwise dispose their share of property what they have received through partition of inheritance. They are absolute owner of the share of inherited paternal property.

There are twelve types of sons: - (1) one who is born with a married wife of fellow caste from one's own seed (2) One who is born with a wife of a brother and from one's own seed (3) Son of the daughter (4) one who is born to unmarried girl by own-self (out of wedlock) (5) one who is born after marriage with a woman who was already pregnant at the time of marriage (6) One who is born and grown up secretly out of secret love affairs (7) One who is born to a woman who has entered into second marriage (8) One who is given up by the parents (9) one who is found all of sudden (10) one who is purchased paying money to his parents (11) One who is taken care of as good as a son (12) One who has offered himself to serve him as a son.

Out of these twelve types of sons, the six ones are entitled to get share of their father's property and the other six are not so entitled. Among them the formers are superior ones and latter fall under lower category.

After the death of the father, all types of sons mentioned in this paragraph, shall receive the paternal property in the order. In that order, if there are no superior types of sons the next lower types of sons are entitled to receive paternal property.

If there are no sons, the daughters receive paternal property since they are just as part of his lineage because both a son and a daughter continue the lineage of their father.

Even if there are no daughters then the inheritance should be obtained by the relatives of the same dynasty. In case they are not there all the property should be deposited to the state treasury.

The king should make deposited such inherited property to the state treasury except the property of Brahman caste by respecting the values of the religion. His duty is to provide sustenance to the helpless women. This is the law of partition of inheritance (Ansabanda).

This is the end of the chapter on dispute relating to partition of inheritance.

NEPAL LAW COMMISSION

Chapter on Dispute Called Offence (Violence)

If a person commits an act immediately without using his/her mind out of the proud of his strength that is called Sahas (violence or use of force). Meaning of the word 'violence' is strength (use of force).

There are three types of violence: (1) the lowest (2) the middle (3) the highest, i.e. the lowest offence, the middle offence and the highest violence. In Shastras it has been mentioned that the features of these violence are different.

Breaking, stealing and destroying the fruits, roots/yams, water and other similar activities and to encroach the boundary of the land and to destroy the agricultural and similar goods are the Lowest degree of violence.

To attempt to make breaking and destroying of clothes, animals, food, drinks and household utensils is called middle degree violence

To transect the goods like poison and weapons or to kill a human being by the use of poison, weapons and similar items, molesting other's wife and to commit any other act that might cause death are the highest degree of violent acts.

The penal system for those acts is as of this- considering on degree of criminality- less than One Hundred to the lowest degree of offence, and minimum Five Hundred for the middle degree offence. Death penalty, confiscation of the entire property, banishment from the city, branding with the content that 'this man is criminal' or chopping off a limb, are the penalties for highest degree offences.

The penalties mentioned hereinabove are equally applicable to all men of all other castes except death penalty. Death penalty is executed to all the castes except the Brahman because Brahman is not executed.

If a Brahman commits a crime to which death penalty is prescribed he should be banished from the city upon completely shaving his head. He should be leaved

branding his forehead with content (symbol) of his crime or make parading him on an ass.

The criminals who commit the first degree and the second degree offence, after serving of their penalties, they are accepted for future transactions. A man who commits a highest degree offence, even after completion (serving) of punishment, they are not eligible to speak, food and other similar activities.

Theft is a Bhed (category) of the highest degree offence. It seems bit different. To cause trouble (chinta) in the heart of the victim upon looting any stuff with an attack is called Aadhi, to cause same through conspiracy and deceit (Chhal Kapat) and grab any stuff is called Steya.

That offence of theft or looting also has been categorized in three forms by the scholars depending on the value (nature) of the object. The objects to be looted or to be theft are of three kinds: petty, medium and highest.

Earthenware, seats, cots, wood, grass, beans and cooked food-all these are petty items.

Clothes except silk, animals except cow, metals except gold, rice and barley are medium items.

Gold, gems, silk clothes, women, men, cows, elephants, horses, and the belongings of God, Brahman and king and other similar stuffs are the highest items. The scholars say that using of variety of means to deceive people who are asleep, insane, intoxicated and grab their belongings constitute a theft.

If a man is arrested with the stolen goods it is a proven theft. Disproportionate possession and spending of property beyond his capacity may be presumed as a theft. One may be proved involved in a theft on the basis of his association with thieves, robbers and bad individuals; unnecessary spending may also lead to prove a theft.

One who provides food and shelter to the thieves who are on the run (fleeing/absconding) and who do not stop a thief even then he could catch him also shares guilt in theft.

What the penalties have been pronounced by the scholars for the lowest, the middle and the highest offences, the same penalties apply in petty, medium and highest degree of theft respectively.

When cows and other similar animals are lost and any property is stolen, then the people having special knowledge on the matter should investigate through foot-prints and other similar symbols/signs. Wherever the foot print leads whether to a village, farm, or a lonely place, the compensation (Harjana) should be borne by the persons of that place.

If the foot prints of cows etc. are obscured or broken or lost because of rough ground of lonely path then the settlement of nearby village or farm should be made to pay compensation.

The unpopularly known recidivist thieves and their accessories (co-partners) may be found roaming around the roads or streets. Therefore, the detectives or people engaged in patrolling should make such people outside from the village or town or wherever they are.

The king should cause to find out the thieves and stolen property and return back such property as soon as possible. The king should compensate people from state treasury if thieves could not be found. If the king is reluctant to return the stealing property of a public, the king should bear the sin of such offence and he loses his fame from religious (dharma) and economic stand point.

This is the end of chapter on dispute called offence (violence).

Chapter on dispute called verbal assault and Punishment

An abusive and coarse statement which is used to condemn some one's country, caste, family etc. is called verbal assault (Vakparusaya).

For being it harsh, vulgar and violent such a verbal assault is divided into three categories. Considering its gravity, the penalty to be imposed on these three types of verbal assault also becomes severe based on the gravity.

The scholars say that the sentence spoken with allegation is called harsh abuse (Nisthurparusaya). The sentence produced by using blame worthy (abusing) and coarseness words is called vulgar abuse Ashleelparusaya. The speech spoken by using hatred sentences resulting degradation (out casting) is called violent abuse (Tibraparusaya).

Injuring other person physically with one's hand, foot i.e. boxing, kick, weapon and throwing hot ashes and similar other acts are called physical Assault (Dandaparusaya).

To create fear in the mind of the enemy one may show fist, kick, weapon or stick, or one may use those items on his body carelessly or may cause injury on the body; therefore, physical assaults are divided into three categories; they are- petty, medium and highest.

When a person picks up immediately under provocation any means (instrument) they are also divided into three categories they are- petty, medium and highest and the offence caused through those means also categorized into three types. In such situation Kartaksodhan (thorns i.e. enemy must be removed rule, is followed.

There are five kinds of 'thorns must be removed' rules in both of such violence (offences). If one is directly involved on it he is liable to a punishment otherwise he will be released.

One who indulges in assault out of provocation he should also be punished.

If two persons are equally engaged in an assault against one another, both of them should receive the same punishment.

One who starts the fracas between the two is certainly punishable. If a person who comes later on to quarrel and does not show modesty he is also punishable. But the initiator should get heavier penalty.

When both are equally involved in an assault and if one of them comes to complain he should be punished whether he started it or not.

One who assaults (crosses the limit) the women of a Shwapaka (from outcast community), an impotent, a Chandala, a deformed person, hunter, an elephant driver, a Bratya (uncultured) and to a Guru (teacher) or a slave; he should be killed immediately. This is the penalty of that crime. The scholars have not said that the killing of such man is the fault of physical assault.

If the lowest grade man assaults a man being degraded to a man, the victim is entitled to punish the offender. In this case the king need not impose penalty to mean, such issue should not be approached to the king.

These lowest grade men are like stools of man. Their property or asset is also like stool. Therefore, the king should impose death penalty to such person, financial penalty is not sufficient to them.

If a Kshatriya insults a Brahman by verbal abuse such Kshatriya shall be liable to a fine of One Hundred Pana. If a Vaishya insults a Brahman in such a way he shall be liable to a fine of One Hundred Fifty or Two Hundred Pana. If a Sudra insults a Brahman in such way, he shall receive death penalty.

If a Brahman insults a Kshatriya by verbal abuse he should be fined fifty pana. If a Brahman insults a Vaishaya in such abuses, he should be fined twenty five pana. If a Brahman insults a Sudra in such way, he should be fined twelve pana.

When a Brahman, Kshatriya and Vaishya are insulted by the member of their own caste he shall be liable for a fine of twelve pana. If one disputes saying something which should never be uttered he should be fined to the double of it i.e. Twenty Four Pana.

If someone abuses a person with one-eye or crippled or any deformed person using the same word, even if he is really like that, the offender should be fined a minimum of one Karsha Pana.

One should not abuse someone for a sin after he has purified himself in accordance with the order of the sacred text. And one should not be abused to the crime he committed when he has already served the penalty imposed by the king.

There are only two types of persons in this world who should not be condemned. They should not also be killed. One of them is Brahman and the second is the king because both of them accept world respectfully.

One who calls for an outcaste (patit) 'an outcaste' and for a thief 'a thief' that constitutes minor offence. One who calls outcaste to a non-outcaste and one who calls thief to a person who is not a thief; his criminality is considered to be the double.

If a man born in a lowest caste assaults the name or the caste of the man of Brahman, Khatriya or Vaishya he should be pierced with an iron spike of eighteen Angulas in his tongue.

If a Sudra has the arrogance to instruct the Brahman on religion, the king should have hot oil poured into his mouth and ears.

If a man of low caste defames or offends a Brahman with a certain limb, that very limb must be cut off; this is how he atones for it.

If a man of low caste tries to seat on the same seat of Brahman or other higher castes he should be branded on the hip and banished or he should have his two buttocks cut off.

If a person of low caste has the arrogance to spit to the person of higher caste, the king should order his both lips cut off, to urinate his penis, for excretion his anus.

If he grabs the hair, holds feet to cause pain, or pulls beard or nose or forcefully holds the neck or throat or genitals, he should have both his hands cut off.

If causes lacerated wound or bleeding, he should be fined one hundred pana. If he knocks muscle, he should be fined six Nishka; if he breaks bone he should be banished.

If a person badly insults the king who is engaged in his duties with all decorum, his atonement is to have his tongue cut or all of his property confiscated.

If a foolish and low grade person assaults even a sinful king, it is bigger sin than murdering one hundred Brahman, he should skewered and roasted in fire.

A father is not liable to a penalty for the crime committed by his son and the owners of a horse, a dog and a monkey for their misdeeds. But if a son is instigated by the father and the owner did same to a horse, a dog and a monkey by their owners then they shall be responsible for the punishment.

This is the end of the chapter on dispute called verbal assault and Punishment.

Chapter on Gambling and Contests

To gamble by ivory pieces, pieces of glass, dice and Salaka and other similar items or to make wagering or to make contest of strength of birds and bulls and to pay wagering to one who wins it, all these acts fall under the title of dispute called gambling and contests (Dyutasamahwoy).

One who conducts gambling should give wealth what is needed to the gambler and should take back immediately with ten percent interest after he wins.

In the wagering if the player knows the rule of game, rolls ivory pieces to the same number twice on the rolling place. In such a game one shall lose it. If there is a doubt in the gambling that who is loser and who is winner then the gamblers should depend on the gamblers who observe there. The gamblers themselves are the observers or witnesses of gambling.

A crooked gambler should not make other group of gamblers as the deciders to fulfill his vested interest. One should not beat the opponent gambler he should give him what he gets from the favourable man.

The cunning gamblers who know to make crooked dice should have a necklace of dice hung around their neck and be thrown out of the gambling place. This is their penalty.

This is the end of chapter on Gambling and Contests.

Miscellaneous Chapter (*Prakeernak*)

The function of the king shall be prescribed in this miscellaneous Chapter. The consequences of abiding by and violating the order of the king shall also be mentioned here.

Permission for developing town and financial assistance, Bibhag of the people, transactions relating to Pakhanda, Naigam, class and Gana, disputes between father and son, violation of penances, facilities and punishments to be given to the Ashrama dwellers, faults of barnashankar (mixing castes), the rules of livelihood of mixing castes and others whatever not covered in previous chapters shall be written in this miscellaneous chapter.

A king should follow brahmacharya, Garstha and Sanayas stages of life carefully as prescribed by the texts and by Saam (conciliation), Dan (gifts), bhed (dissension) and Danda (punishment) four of these techniques and people also should be protected through these four techniques. When any caste is superseded or when a caste makes undue superiority, the king should return the castes to their right place who are deviated from their decorum prescribed by the Shastra.

If a contemporary or previous king has done any injustice due to ignorance then the present king should place that injustice on the path of justice.

Even in the condition of confiscation of entire property of a person specified here and the goods mentioned herein should not be confiscated. Those goods are- weapons of a man who makes his livelihood by using weapons, tools of artisans or craftsman, ornaments of a female prostitute, instruments of a musician and any tools by which artisans make their livelihood with the help of those tools should also not be confiscated.

The king should take action to place them who are degraded from their own caste and religion in their own caste and religion.

The king should impose punishment who commits offence (sin) which is not told in text (shastra) keeping in view of his own duty.

The king should stop those activities which oppose the *Veda* and *Dharma- Sastra* and which do not benefit the living being even though they might be in practice since long ago.

The king and Brahman etc. are infinite for the human beings. The king is illustrious. The Brahmans are sacred. As long as they do not deviate from their path it is not necessary to provide directions to them, they should not be condemned because the king is illustrious and the Brahmans is sacred.

If the king does not punish the men of all castes when they deviate from their own path; all subjects may be perished.

In the absence of dandadhari (having authority) king a Brahman shall loose his Brahman-hood and a Kshatriya relinquences his Kshatriya-hood. A Vaishya also gives-up his work and duty in this circumstance, and the Sudras shall gradually achieve superiority.

If the king does not take force (Sanction) on earth the strong men would cook the men like fish on a skewer.

Always show favour to the virtuous (noble) people and punish the wicked, this is the Dharma (religion) of the king prescribed by the Sastra (text). The material gain which comes from oppressing his enemy is his finance.

Just as fire is not tainted by sin even though it is always burning the creatures of this world, just like that a king is not tainted by the sin when he punishes those who deserve it.

To command is the power (Tej) of king. It is based (lives) on speech. Therefore, whatever they say, right or wrong, that is the Dharma for other household people.

The thousand-eyed God Indra roams on earth in the name of the king. People can never stand when they violate the command of the king.

The King has to protect whole nation; because the power is vested in the king, and because the king is the most powerful than all others in the nation and because the king is kind hearted to all creatures; therefore, all the acts of the king are authentic, this is the system (decorum).

How a husband even without any quality is respected by the wife; similarly a king without quality is also respected by the subjects.

The king wins his subjects through austerities. Therefore, king is the master of the people and the people should live under his order and the people also get their livelihood through the king.

Kings with immense power (oaz) use to take the features of the five Gods; they are Agni, Indra, Chandra, Yamaraja and Kubera.

He is called *Agni* when, he shows anger.

A king is called *Indra* when he relies on his power, seeks victory, raises weapon and attacks the enemy.

A king is called Soma (moon) when he appears before his subjects without any anger or agitation and in a cheerful mood.

A king is called *Yamaraja* when he takes the seat of justice in full majesty, and imposes penalty equitably to all living beings.

A king is called property giver Kubera when he obliges with gifts to the beggars, Guru; the noted scholars, servants etc.

Therefore, one must not underestimate the king; do not scold him, do not instigate him putting unnecessary matters before him; always obey his edict; if one violates if he may die.

The duty of the king is to protect his subjects; to honour the elderly, wise and experienced, and to adjudicate disputes as well as to be attentive to his own duties

A king should pay respect the Brahmans carefully because the Kasatriya-hood (the royal power) combined with Brahman-hood (dharma and knowledge) is the main basis for the protection of the people.

A seat of a Brahman is mandatory in front of the king. The king should see the Brahman early (first of all) in the morning and pay him respectful salutation.

Brahman should be given the right of way firstly when he travels out of Nine or Seven types of men are travelling on the road. One should not prohibit him to enter in to the house of someone else for begging (Vikshaya).

A Brahman shall not be charged for collecting Samidha (small size fire woods for religious purpose) flowers and fetching water which belongs to someone else. He shall not also he charged for making conversation with the wife of any other person without any other expectation.

Do not charge any toll (service charge) to a Brahman while crossing a river through the boat. He will get priority in the course of lending. One should not collect any duty of commercial goods which are along with him.

If a tired and hungry traveling Brahman takes two stalks of sugarcane and five tubers from some other's garden or kitchen-garden and consumes himself it at day time, he should not be considered guilty.

One should not take any thing from the farm (land) of a man who is engaged in litigation, who is outcaste (incestuous), an enemy, and atheist and from the land of a man who cheats other. One should not take anything from others which may cause pain to the giver.

The king should collect wealth from all, except a Brahman, because there may be different reasons to use it in the country and to support the Mahatma (learned people) financially.

It shall cause no harm to collect wealth by the Brahman and a king to protect the people of the nation with due Dharma because they are determined for the same.

Even if the king is harsh in his nature, his wealth is pure if he knows the Dharma and virtue and if he punishes those people who are impure and having bad character in order to protect his countrymen.

Just as pure and impure waters are collected in the ocean, after reaching waters in to the ocean there remains no question to distinguish whether it is pure or impure water. Similarly, when pure and impure wealth are collected in the state treasury, when it is collected in the treasury no question can be raised to distinguish whether it is pure or impure; all is equal.

How the gold becomes pure (holy) whether it be pure or impure, when it is placed in a blazing fire. So, all kinds of resources of wealth become pure when they are deposited before the king.

If someone gives his property to a Brahman, the king must grant permission to this eternal (Sanatan) rule.

The king is empowered to collect a Tiro (revenue) as a consideration for providing protection to the public and it should be one sixth of the product of their land because it is supported by holy books (Sastra) and it is better than all other taxes to collect as a remuneration of the king.

The king may take back the wealth what he has given it to other than Brahman. Any wealth once given to a Brahman shall not be taken back.

A Brahman has these types of Functions: to accept gifts (dan), to study and perform Yagga (scarifies). Performing Yagga (sacrifices) for others, teaching and accepting gifts are their means of livelihood.

A Brahman should follow his own duties (Dharma); if there arises any livelihood crisis while being in dharma (duties) he should obtain his livelihood from the king. Even though there is rule in Shastra that a Brahman could accept dan (gift) from any one at the time of crisis but he should not accept it from a bad man.

Why the king is not God when with his order an impure man is immediately considered pure and pure man impure?

If Brahmans accept gift (dan) from the king who is highly enlightened and considered as good as God; they are not considered guilty.

The following eight, in this world, are considered auspicious: (1) a Brahman (2) a cow (3) Fire (4) gold (5) clarified butter (Ghee) (6) the sun (7) water (8) king: One should always look at, salute and honour them. Keep them right side when you meet/see them. It will help for long life.

This is the end of Miscellaneous Chapter (*Prakeernak*).

Chapter on stealing proclaimed by Narada

There are two types of thugs (cheats) who loot other's property. One who loots behind the owner and one loots in front of the owner. A quality king must find out those types of thieves.

Those who directly cheat people are as following: - (1) One who takes other's wealth by Tantramantra (2) One who uses fraudulent weights and measures (3) One who takes bribe (4) Violent robbers (5) Gamblers (6) Prostitutes (7) One who copies the design (8) One who makes livelihood by telling Swastbachan (fortunes).

The indirect thugs and thieves are as following: - They live hiding either indoors or out doors and these men attack and rob when members of the family asleep or intoxicated. These are the sneak thieves: those who attack the country, villages, who break houses and loot the property, who destroy the roads, who open other people's cattle farm, and those who beg on the road. These looters are sneak thieves.

The king should always be engaged in finding the thieves with the help of skilled detectives and spies should be placed to follow and apprehend them.

The detectives should patrol to find out thieves at and around assembly halls, Pousala, sweet shops, brothels, and liquor shops, cross roads, beneath the trees, Chautari (waiting venues), crowd of the people, recreation centers, deserted houses, forest and temple of Gods.

Use trust worthy and obedient people in arresting thieves; such people may use (employ) those persons who were engaged in stealing earlier, they may give food grains and other minor gifts to the outsider thieves and cause to watch the Utsav (festivals) and the insider thieves shall be taught the modus operand of theft and shall be mixed up with the outsider thieves.

Those thieves who are not caught by means of vigilance and hot-pursuit they should be attacked and arrested along with their son, cattle and relatives.

Those apprehended thieves should be painted black and other colours and they shall be declared as antisocial thieves going to be hanged on the date and they should be killed by Chitrabadha.

The king should not impose death penalty to the thieves who are innocent and are not in possession of Dashi (material evidence). The king should promptly punish them who are in possession of stolen goods along with burglary tools.

The king should confiscate entire property and should make social condemnation of those thieves who have maraud their own country and obstruct roads.

Those who are arrested on a suspicion of theft, even though they did not possess stolen goods, should be tested by fear, threat and other method by which they themselves might confess their misdeeds.

While in detention by the officials thieves should be interrogated clearly about the place, time, direction of crime and their name, caste and place of residence and family details.

One should arrest a thief documenting and confirming the following things before hand: one who brings changes in colour, voice and appearance, one who is hesitant to answer the question to the community, one who is seen at times at the wrong place, one who contradicts his own statements, one who does not clean his place, one who is intolerable to the society for being recidivist, one who has day and night association with criminals, one who makes irrational expenditures and one who does not make contact with other people. Thief is not caught merely on the ground of material evidence (stolen goods).

If there arises any doubt to a professional thief or looter, he may be caught on the ground of minor evidence and cause him to take an oath.

One, who gives thieves food, fire, water, employment, directions, shelter, opportunity to get free, or one who purchases stolen property from them, or one who lends to them or one who conceals their activities to save them from punishment, they should also be punished as good as a thief.

If the authorized individuals and the local heads protected by the chief remain neutral at the time of national crisis they are as good as the thieves.

If a crime of theft is committed in a place where a system of authentic vigilance (watching) is in place, the concerned authority should trace out the thieves. If the thief cannot be caught by him he should pay the compensation for the stolen property.

If a thief flees from the prison or disappears due to the negligence of the official then the compensation or fine what the thief has to pay should be paid by others. Such compensation should be paid by the responsible local head, watchman and Dikpala.

If someone's house is burgled, the king should cause to catch the thief. If thief flees after arrest, in such a case the compensation should be paid by the person who arrested or by the responsible state body or the guilty person shall be traced and he shall be ordered to pay it. If there is doubt against the complainant then he should be made to swear an oath. He may be imposed Physical penalty if needed. Through this process the dispute would be disposed of. It may establish the fact of theft.

If an innocent person is alleged on theft without any proper investigation but showing him some unidentified goods as an evidence taken into custody; in such a case there are chances of acquittal of by the real thief; therefore an accused has to be arrested upon sufficient inquiry and false complainant should be punished two fold after the arrest of actual thief.

As far as possible, one should cause to return anything stolen by a thief in its original condition. If it is not possible, the thief should be made to pay its value and a fine equal to the same amount.

There should be a fine for stealing wood, cane, grass, clay, and utensils made of clay and flute, things made of bamboo reeds, bone and utensils made of leather. For stealing green vegetables, fresh radish, fruits, milk products, sugar-cane products, salt, oil and different types of cooked foods, different kinds of liquors, meat and other similar inexpensive items, there should be a five times of fine based on the value of the stolen property.

If a person steals a property which is weighted on scale, measured by mano, pathi, or counted in number but which are expensive than the goods mentioned hereinabove, he shall be fined ten times to the cost of stolen property.

For stealing ten Ghampas of paddy the penalty in maximum is death and in minimum is eleven times of fine based on the cost of stolen item.

For stealing gold, silver and similar valuable metals, high quality clothes and main gems in more than one hundred units, there should death penalty to the thief.

For abduction of a man the punishment should be the highest fine. For abduction of a woman the punishment is confiscation of entire property. For abduction of maiden the punishment is death penalty.

For stealing large animals like elephants, camels, tigers, bears, and rhinos, the punishment for thief is the highest fine. For stealing medium size animals the punishment is the middle fine. For stealing small animals like goats the punishment is the lowest fine.

He who abducts the medium size animals he should be punished by the middle fine. The financial punishment from twenty-four Pana to Ninty-six Pana is called the lowest fine. The financial punishment between two hundred to four hundred

Pana is called the middle fine. The financial punishment from five hundred Pana to one thousand Pana is called the highest fine. Thus, creator (Brahmajee) has prescribed law of punishment for three categories of offences.

A pickpocket should have his both thumbs cut off for his first offence. On the second offence the rest of his fingers should have cut off and a financial punishment of the lowest fine shall be imposed against him.

For stealing cows in herds belonging to Brahmans, the fingers of the accused should be cut off. For abduction of a female slave the punishment is cutting off half a foot.

With whatever particular limb an evil man or thief commits crime, that very limb should be cut off, this is the directive of *Manu*.

One shall be liable for a severe punishment for committing serious offence (stealing important items) and comparatively lower penalty for a minor offence.

The Swayambhu Manu has said that there are ten places for punishment, which apply for Kshatriya, Vaishya and Sudra (three castes) except Brahman. The Brahman always remains woundless. This is a universal rule. The genitals, the belly, the tongue, the hands, the feet, the eyes, the nose, the ears, his body and his personal property are the places for punishment.

A person who is on the leadership position of a nation, shall only inflict penalties when he shall collect all the information in relation to the crime based on the Desh (place) Kal (Time) and paristhiti (environment), determining whether that offence causes long term or short term effects and investigation to all involved in the offence.

A king should not release a violent criminal on the ground of friendship or greed of property. This is what Manu has said.

A king is considered Vidharmi (unjust) if he imposes death penalty if it is not required or he restrains from imposing it if it requires. If the king imposes accurate (appropriate) penalty he will be considered Dharmatma (righteous).

On no account king shall strike a Brahman to death penalty even if he has committed every possible sin; rather he should be banished. This is the rule of Dharma. If a Brahman commits a violent crime the king should confiscate all his property or leave him one-fourth. Considering the Dharma (righteousness) of Prajapati no other punishment should be imposed to the Brahman. This is the rule of Prajapati.

When a Brahman commits incest (intercourse with mother, mother's younger sister, wife of the Guru, wife of the elder brother, daughter and elder and younger sister and similar relations), drinks liquor, steals, kills another Brahman or kills embryo he should be branded permanently on his body. For example – For incest, the brand should be a sign of Vagina on his forehead which would be seen. For theft the brand should be a dog's paw making it not to be rubbed. A headless man should be branded on the forehead if he kills a Brahman or an embryo killer. He should be prohibited to speak with anyone. This is the directives of Manu.

The thief should approach the king with his hair cut, and making confession of the offence and requesting for the penalty. The thief becomes free of sin if he truly makes confession of his commission of crime. If the king does not punish and releases him without giving appropriate punishment, the king also will not be free of sin.

Men who have received punishment from the king for the sins (offences) they have committed are clean (Nispap) and go to heaven just like doers of good deeds. After truly making heard the crime to the king by the criminal, he becomes free from sin whether the king punishes him or not; if the king releases him without punishment that sin befalls to the king.

Virtuous and self-respecting men are governed by the Gurus (teachers). People with bad characters and evil-mind are governed by the king. The sinners who have secret sin are governed by Yamaraja, the son of sun.

The guilt for a theft is eightfold for a Sudra, sixteen fold for a Vaishya, thirty-two fold for a Kshatriya and sixty-fourfold for a Brahman: The son of Swaymbhu Brahma has said that specially the learned people (scholars) are knowledgeable, therefore, a higher punishment is imposed to the scholars.

There are two types of punishment- (1) Physical/corporal punishment (2) Pecuniary punishment. There are ten kinds of physical punishment, and many kinds of pecuniary punishments. Pecuniary punishment ranges from one koudi up to one's entire property, physical punishment ranges from imprisonment up to execution of death penalty.

The pecuniary punishment which is told Kakini etc. is regarded at a minimum of one Masa. The punishment which begins with a minimum range of one Masa has a maximum range of one Karsapana.

The punishment which begins with a minimum range of one Karsapana has a maximum range of four Karsapana. The punishment which begins with a minimum of two Karsapana has a maximum range of eight Karsapana. One another type of punishment ranges from a minimum of three Karsapana and extends to a maximum range of twelve or more than that Karsapana. The quantum of punishment mentioned here in Karsapanda etc., increases Two fold, Three fold and Four fold from the baseline fine respectively. Similarly, other penalties are also increased in their range accordingly. These laws of punishment are called Purbasahasa.

In the south, the coin called Karnapasana is mint of silver and that is in use. In the east the Karsapana is in use and which is related with Pana i.e., particular

Karsapana is equivalent to this much Pana is a system there. That is equivalent to twenty pana.

A Masa is called one twentieth of Karshapana. Kakani is equal to one fourth of a Masa or Pana.

The practical name of currency which is famous in the region of Panjab has not given an evidence of quantity of Karshapana. Karshapana is known as Andika. Four Andika is equal to a Dhanaka. Twelve Dhanaka is equal to a golden coin. That is also known as Dinara and Chitraka.

A king should always follow attentively the policy of Warta (agriculture, animal husbandry and commerce) and Trayi Veda and penal policy (Politics). Those sinful enemies who make hindrances in the implementation of these three warta, trayi and penal polices, they should be caught by any means as prescribed in the Sastra and then be destroyed (punished).

This is the end of chapter on stealing proclaimed by Narada.

A person who commits perjury (who knowingly answers untruth) shall have the same fate as one who kills a Brahman, father, a cow, mother, a Guru (teacher), a child, or who is an incestuous, or one who breaks the rule made by the majority, or one who kills woman, these violent sinners suffer.

The real witness speaks the truth, truth increases Dharma (righteousness); therefore, the witness should speak truth in relation to the persons of all castes.

When the parties to a law suit have no witnesses, the accused himself should be examined by means of different types of oaths or divine ordeals (divine ordeals means to put fire on the palm or make to sink into the water).

An accused should be made to swear an oath considering his truth, vehicles, weapons, cows, seeds, silver, Gods, mistakes, gifts (dan) and holy works (punaya).

Such as – ‘if I have had committed this crime, let my truth destroy me, let this weapon make me destroyed etc.

A king who has best reputation among the people should examine the accused by the divine ordeals in the serious crimes. In minor crimes he should control the accused by means of an oath.

These oaths have been prescribed to the accused suspected to have been involved in the minor crimes. But in serious violent crimes, such as theft, murder and assault on woman, the divine rules should be brought in to practice.

The accused should be involved in the rules of divine ordeal's examination if there is a doubt of serious violent crime and especially in a secret crime. Lord Manu has said that there are five types of divine ordeals.

The balance, fire, water, poison, and Kosa- these five ordeals are prescribed for the exoneration of the innocent accused. Narada has also revealed the system of exoneration which helps in concluding true and false regarding an accused to find whether he is innocent or guilty.

A wise king should administer an ordeal with the consent of both of the plaintiff and the defendant, not otherwise. To support the two posts of the balance, each six hands long and four hands high posts should be set from the surface of land. The distance between the two posts should be one and half hands. Rope supports should be fixed to the solid hooks at the end of each balance beam and it should be weighed first time and should be marked in the balance.

There should be placed a man on the one side and a stone on the other side of the scale for weighing. The weight should be verified by those who has knowledge about weight and who use the balance, like an expert of gold smiths, traders and those who sell the utensils of brass.

Weight a man and mark the balance. When the scales are on level the man should be taken off to swear an oath and he should be made to get onto the balance again. When such person goes for weighing keeps the scale into the specific balance.

To write the quantity (weigh) prepare a square shape wood which look like scorpion in three places from the undamaged, undamaged and Kancho (not dried) tree of Khayar or Tindu or Sisam or Sala.

These woods should be prepared for balance. These woods should be buried vertically unmoved at the meadow in front of the temple or at the doors of meeting hall, or at the doors of royal palace and they should be worshiped by scented sticks and Shrikhanda (sandal woods).

They should be decorated and worshiped by curd, milk, akshataya (unbroken rice) and good smelling things. Thereafter, call Lokpals for dharmaraksheya of those half buried words. Let the person concerned be in fasting for a day cause him to take bath, and cause him to take divine oath early in the morning along with wet clothes in front of those woods which are protected by the Lokpals. The man who has to swear should be in one-day fasting in front of these woods, on which the protectors of the people (lokpals) are residing, making him to take bath and with the wet clothes. He should be made to take all kinds of divine ordeals in the beginning (of the day).

It is told that when the accused appears bowing his head he should be swore the divine ordeals. But in the case of a king this may be otherwise; if the accused appears when it is not raining or storming, keeping leaf on his head after the Sachaila bath one should recite the statement targeting those mentioned here under persons who have not done the Siranamana and Tularohana.

Om salutation to righteousness (Dhama)!

O Balance! you know the sins and virtues of all creatures, which people do not know. This litigant is going to weigh by you. Therefore you are capable, to make

this suspect, on the basis of dharmā, that whether he has committed the sin or not. A man who is weighted on the balance if his weight increases comparing to the earlier position on balance then that man is considered innocent on the basis of dharmā. If it decreases then he is not considered innocent. If one has same weight as it was earlier he is considered a neutral man; if it decreases he goes to the degradation. Such person should not be innocent. To be innocent there should be more weight than before onto balance, or there should be Udhrogati (high gradation). A man with equal weight may also be an innocent. Such a weight is of three kinds. This system is called Tulakalpa. This Tulakalpa distinguishes the innocent and the guilty exactly as correctly as possible.

Now it will be explained the best procedure to prepare iron for fire ordeals, the numerologists (Samkhayasastra) should imagine (take) the plain land in circular shape a little bit more than 224 Angulas for this work and it should be made seven circles (mandal) in from smaller to bigger and bigger in size respectively. But it is required that the interval of each circle should be thirty-two Angula. The seven circles made in this way should cover 224 Angula of diameters of land. Now, the accused should be made one day fasting and caused to take bath along with clothes and should be made him be seated into the circle carefully making purified along with his wet clothes. One should put in his hands seven leafs of Pipala tied by thread. One should keep iron ball into the fire until it gets red and should recite the following sentences:

Om solutions to the Dharma

O! Fire God, you are the Jyoti-sworup (brightened-light) moving inside the body of all creatures and cause to digest the food they have eaten. You conduct the good and evil (Prabitayatamak and nibritayatamak) deeds (Karma). It is your function to distinguish the accused whether he is false or true (guilty or innocent). After your examination this man shall be dedicated to the truthful acts upon giving up

his unrighteousness nature; upon reciting this one should put that heated iron ball on his hand. The man who is purified by one day's fasting should stand at the first circle taking that heated iron ball and should take seven steps in all the seven circles. Then, like the lightning which is highly heated and hooked by highly heated rods caught properly by healthy man, neither a child nor an old but a quite young iron smith should help with their best control. The accused should neither step over any circle nor step in between them. He should cross the land only to the prescribed distance. One who traverses calmly the circles in the prescribed manner, and if remains completely unburned, that man is considered innocent. A man who drops the heated iron ball out of fear or who does not know that he is burnt, he must repeat it again. This is the ancient practice. A man who crosses the seven circles, which is to be crossed in seven steps taking heated iron ball, his hands should be watched after three hours. One whose hands are as clear as in the past he wins the case otherwise he would be defeated. One should distinguish the victory or defeat upon following this procedure (rule).

Hereafter, the rule will be prescribed to distinguish criminal by the use of water. The king who wants ultimate justice through the use of water he should not follow this procedure in autumn season.

A bow which can throw seven arrows at a time or continuously is called Kruradhanyu. A bow which can throw six arrows at a time is called Nati Krura. The bow which can throw five arrows is called Manda. This is the Rule of the bow. Prepare a Toran before the Dhanurdhari (a person who can shoot arrow) and shot an arrow under the water of the Torana area, this is called the law of arrow. The dhanurdhari should shot three arrows into the water by Nati Krura bow and the accused should be made to find out the middle arrow grasping thighs of a strong man upon fully sinking into the water. A strong youth should run fast and when he catches the arrow another strong fast runner man should bring in previous place catching him along with arrow. Thereafter, five or six arrows should be shot

around the accused without making him shot. Till then, if the accused remains sinking under the water without showing his limbs then he would be innocent otherwise guilty. If he moves from the prescribed spot he would be guilty.

Women and weak men should not be forced to go into the water because women are extremely fearful to go to water and weak men are strengthless. In such a case both of them may die immediately. Therefore, they should not be made to go into the water.

The accused shall grasp the thighs of the strong man who is already standing into the middle of the water and shall remain there until the arrows are found out. Another learned man, taking a bath and purifying his soul, shall make him heard the righteous sentences which are prescribed hereunder:

Righteous enchantments (*Dharmamantra*)

Om! Salutations to righteousness.

O water deity! You are the pleasure giver to all the living beings and you are form of cold. Therefore, please save this accused from the sin. You can see his all good and bad. You are the first God of all creatures. You are the most important means to satisfy this world. Water and fire are the best means to clearly distinguish the true and false. Between them, water is better than fire, since fire also originates from the water. Those who know the essence of righteousness (Dharma) give priority to the water to purify an impure man. Therefore, O! Water deity! You are capable to protect it through the truth. After praying this, the accused shall sink under the water making no limbs of his body to be seen and search the arrow. After obtaining arrow, he has to take and see it and after coming out intelligently from the water he shall bow down and salute the king and all the assembly members and he should go from there.

Now, it will be explained the supreme rule of poison administration. Here we shall describe about the poison, to mean when and how it was found and how it was

prepared. As well as, how to administer poison at what quantity and to what number shall also be described as it is prescribed by the scholars and effect of it.

Firstly poison should be weighed and brought in administration in the winter season. One who knows rule (Dharma) should not administer poison in the morning, at noon and also in the evening. There is no fault in the administration of poison in autumn, summer, spring and rainy seasons.

Poisons which are broken, crushed, scented, adulterated and Kalakuta should carefully be avoided.

Shanga poison which is found in the Himalaya which has proper aroma, colour and flavor is considered good. Such a poison should be collected in accordance with classical rules and if a king wants to know the real strength of that poison he should administer it to those accused of a serious crime only after asking to the Brahmans and receiving their permission.

Poison should neither be administered to the child, sick, elderly and nor to those accused of minor offences, a drunk, a victim (person in pain), a deformed and the mediator. Poison should be administered at the quantity about seven couples of millet keeping inside in clarified butter to the man to whom poison is to be administered. It should be Shovan making inside in the clarified butter 1/6, 1/20 and 1/8 of Pala. The man who has to swallow the poison should fast a day and then should swallow before the Brahman or idol of the God. If the poison is calmly digested without making any pain, then the king realizing that man is innocent, should treat him with respect and release him.

Righteous enchant relating to poison- (Dharma Mantra)

Om Salutations to dharmā (righteousness).

O poison! You are the son of Brahma, you are full of truth and dharmā (righteousness). Therefore, clear this man from the sin; if he has not committed sin

and has not given up truth, you become ambrosia for him. Chant this Mantra with due rule while one is swallowing the poison.

Now, the supreme rule for the koshpan shall be explained. The fire ordeal named the koshpan must be administered to a man who has long beard and who has not fallen into any addiction after a daylong fasting and who is still wearing the wet clothes from a ritual bath, making him stand up for a muhurta. After the set time passes, the king along with his assembly members and the ministers should observe his tongue impartially and righteously and after the examination of the fact, he should be punished if he is liable for punishment, if not, after verification by the assembly the king should treat him with respect along with gifts and release him if he is innocent.

Now Paranawakya Mantra

Om salutations to righteousness

The sun, the moon, the wind, the fire, Dhuloka (heaven), the earth, water deity, the soul of living being, Yamaraja (God of death), day, night, the morning dark, the evening dark and the Dharma (righteousness) know the character of man.

Here ends the Chapter on General transaction (VyawaharaPrakarana) codified by Narada in Manava-Dharmashastra.

Now the Seventh chapter will be discussed.

One should work knowing the numbers of gold. If one hundred is reduced it would be the Bisdeepa. If eighty is reduced it would be Agnideepa. If sixty is reduced it would be Jaldeepa. If forty is reduced it would be Dhatadeepa. After being reduced thirteenth parts it would be koshpan. This has been described by Vrihaspati. After being reduced fifth parts it would be Taptamasha. Cause to eat pure rice if half of the same is reduced. Touch the head of one's own son if half of it is reduced. When it is reduced half of it that would be worldly deed (Loukika Kriya).

The administration of poison is not prescribed for women. Administration of water and the *Tula Kosh* etc is also not administered to them. Therefore, any other system should be thought for the women.

The complainant shall not be administered ordeals rather it shall be administered to the suspect or accused.

NEPAL LAW COMMISSION

Chapter on *Taptamash*

Hereinafter, Chapter on *Taptamash* shall be described.

Clarified butter of a cow should be heated in the utensils/pots made of the gold or silver or copper or iron or the clay. The clarified butter which creates fear in the two or three folded soul should be enchanted once with the following Mantra-

Om Salutations to religion (righteousness).

O clarified butter! You are highly pure like ambrosia in yaggakarma (sacrifices). O clarified butter! As you deserve a quality to purify the user let you burn the sinner and be cool like snow to pure and sinless man. One should chant it and keep a beautiful ring made of the gold or silver or copper or iron being washed many times by the water in that hot clarified butter. Thereafter, the accused should be made to bring out the ring which is sunk in that heated clarified butter by his hands but he should have a daylong fasting and still wearing the wet clothes after a ritual bath.

While making a pot of iron, copper or the clay, one should make having sixteen Angulas border, Four Angulas deep with a circular shape and one should fill the pot by twenty Palas of clarified butter and oil. Thereafter, that pot should be heated on fire. After it gets hot one should drop one Masa of gold in to the pot and the piece of the gold should be taken out from the pot with the help of the thumb and other fingers of the accused. In this course, if his fingers do not be deformed or busted by the heated clarified butter, then such man would be pure (holy) from the (religious) righteousness stand point. This is the saying of the Lord Brahma (Brahmawakya). Thereafter, the examiner should examine his fingers and if there is found burnt spot or scratch then such a man is proved impure. This is also the saying of the Pitamaha.

This is the end of Chapter on *Taptamsha*.

The Nayashastra (jurisprudence), which is prepared by Narada, which has a great importance, is very difficult to understand for man of little knowledge. Its simplified explanation is written in Newari Language. Let the kings follow the path of justice studying this.

This is the end of the Nayadharmapada (provisions on justice and Dharma) propounded by Sage Narada in the codification of Manavnyashastra.

This is the end of justice propounding points in the code prepared by Narada-Rishi in Manava-Nyayashastra.

In Nepal King Stithiraj Malla became Siromani (highly respected) of the kings. His good Mantri, the ocean of good policy and Kalpabrikshya (a tree which gives everything) for beggars, Mr Manika, a learned person drafted this famous commentary in Newari language called Nyayabikasini of Dharma Shastra, on behalf of the King, which was proclaimed by Brahma. LongLive Mantrishresta jayat, the son of Mr. Chandan Varma, who could take stand even to the devaguru (teacher of divine master) Brihaspati with his knowledge and wisdom and who is enlightened by all virtues and reputation with knowledge of Mantra, who has a very kind soul and who is like a Kalpabrikshya for all the beggars. This famous commentary called Nyavikasini is completed on Thursday, Sukla Tritiya (pious day) of the month of Phalgun N.S. 500 (1436 B.S., 1380 A.D.) in the victorious kingdom of Shree Shree Sthiti Raj Malla, husband of Rajalla Devi in the city of Bhaktapur. This commentary on justice is copied by wise Lunta Bhadra Bajracharya for Mantri shrestha Jayata making it clearly understood.

Shakya Monk Shree Luntabhadra Bajracharya, a resident of Shree Kirtipunya Mahabihar (Monestry) has completed the work of coping of this book of minister Jayata Varma in Bhaktapur the victorious state of Shree Shree Jayasthitiraj Malla Dev on Thursday, Sukla Tritiya of the month of Falgun 500 N.S. (1436 B.S.) let it be good of the whole world.

Honourable Minister Jayat, who is like a storm to push the dense cloud of advice of the ministers of enemy and who is like Hanuman, son of wind for completion of his master's task shall protect all the people as good as his children.

NEPAL LAW COMMISSION