

## SHORT REVIEWS

THE CASTE HIERARCHY AND THE STATE OF NEPAL: A STUDY OF THE MULUKI AIN OF 1854. BY ANDRAS HOFER. Khumbu Himal, Ergebnisse Des Forschungsunternehmens Nepal Himalaya. Universitatsverlag Wanger, Innsbruck. 1979.

The study of caste in India by anthropologists is made in village settings where its beliefs are still reigning strong. Caste is controlled and perpetuated by informal local bodies such as the caste assemblies. For hundreds of years caste and formal political authority have had no direct connection in India, mostly because India was ruled by Muslim and British powers for many centuries. After India's independence in 1947, caste became an untenable concept to give recognition to and to enshrine in the laws of a modern secular state. However, the case of Nepal in this regard is quite the opposite of India; here a patrimonial state has centrally managed and controlled caste matters for everybody from a long time in the past. Even now when Nepal has adopted the goals of development and modernisation in its polity and governance, its past legacy manifest in certain forms continues. The country is steeped in tradition, the caste system itself has not been abolished as such, and the source of all power in the state is the king who can only be a Hindu according to its constitution. In the past, the state used to get speedily involved in the adjudication of caste matters. Caste is an important consideration even now for retaining social status and economic privileges in Nepal, although in the eyes of the Law everybody is made equal. The present book by Andras Hofer examines the state-caste relationship in detail probing certain crucial issues in the setting of Nepal in a most scholarly study. The study also develops a marvellous tool for studying the anthropology of caste by using a historical-legal document belonging to the middle of the 19th century. This document is the Legal Code of Nepal, popularly called in Nepali the *Muluki Ain* (henceforth MA in this review), which had, for more than a century since it

was first promulgated in 1854 A.D., represented the highest legal authority in the governance of all the people of Nepal.

The MA contains a wide array of laws in a comprehensive compilation, detailing the punishment of civil and criminal offences under diverse social, economic and administrative categories. Some of its sections provide excellent material for studying the social relationship of groups in a traditional society of South Asia. This document has been known to exist for quite some time. Yet, except for short papers by a few scholars in the past, it has hardly been tapped by anybody at such length before. This underlines the great importance of Hofer's study. Besides, a state document such as the MA may have some wholly new clues to provide for understanding the theory of caste, which lends an added value to the present study.

There are in all nineteen concise sections in the book, a conclusion and two appendices. The central theme of enquiry examines the caste hierarchy of Nepal and some of its bases and ramifications, correlation of caste and status, dimensions of status, and finally, the role of state in the management of intra-caste and inter-caste relationships. Of the two appendices, one attempts to define caste hierarchy as observed in sharing a water-pipe smoke in a village of central Nepal based on the author's empirical data, and the other gives a translation of the section of MA on the killing of cows. The presentation assembles the data from MA and enunciates each subject with descriptive texts and tables. Then a brief mention of theoretical formulations on each problem, further supported by ethnographic data from published sources are given, and in this the author shows a remarkable familiarity and knowledge.

For such an unwieldy book the MA comes out most clearly on the caste hierarchy of the people it deals with. There is a single linear hierarchy laid down for everybody in which Nepal's social and cultural heterogeneity is effectively comprehended. The integration of the Newars in this society has been marked with some ambivalence, however. They constitute a distinct group of Hindus marked off by a history and culture of their own from the other *Parbatiya* (hill) Hindus who promulgated the MA. The Newar low castes continue to be treated as low castes with their precisely defined positions in it. But their other castes in the middle and higher order are seen ranged alongside the various ethnic communities who follow no internal caste

stratification of their own and who are labelled *matawali* for their alcohol drinking in their usages and customs. The case of the Newars does probably provide a clue to the process of subjugation of a smaller group by a larger and politically more powerful group through war and conquest as seen recurrently happening in Indian history. The claim of intrinsic caste purity and superiority by the predominant group is mostly made on the basis of cultural attributes. The two symbolic appurtenances determining the higher and the lower hierarchy among pure caste groups ascribed by MA are respectively the sacred cord and alcohol drinking. But the high caste Newar Hindus' cord-wearing was apparently given not much significance in view of their alcohol-drinking practices. Curiously, this ritual line also draws a linguistic line between the speakers of Nepali and speakers of Tibeto-Burman groups of languages, although this was no basis of distinction for the MA. One wonders as to what symbolism the Newar themselves had adopted to distinguish their castes from the ethnic groups such as the Tamang when they were ruling Nepal.

A much stronger line marking the high-low status in the castes of MA is represented by water-exchange line, much like everywhere else in the caste societies. The laws for breaching it are the most severe, and the consequence is heavy in proportion to the relative distance of the impure caste from the high caste. The entire territory of the MA's jurisdiction which would cover the state's international boundaries is looked upon as a sacred land where the Hindus' high psychomoral order would be jealously guarded by the state. Any loss in the absolute caste-specific purity of a person was more the state's concern than that of his immediate family or his kin, because if this was not at once rectified either by allowing expiation or awarding of punishment, the defaulter could contaminate the whole society and bring the life of *dharma* collapsing down.

Hofer's study indicates several other bases of hierarchy in the MA besides the above ritual one. These imply the economic and the legal status cutting across the ritual status marked by alcohol drinking. It is significant that all these statuses would have been meaningless for other societies outside the authority of the state. An interesting point emerges on women. Their caste-specific purity, legal status and their economic rights get correlated with three variables in their sexual-purity, which are sexual virginity, marital chastity and becoming a whore. The chastity of a woman remains intact up to

three marriages, after which she is decreed a whore. Only a woman married as a virgin is allowed her commensality rights with her husband. The legality of hypergamous marriages within all the pure castes of Nepal and allowance for remarriage to even women of high castes secures full caste-status of the father to all the issues born out of such marriages. But caste prudery requires the husband in such a case to separate his commensality from his wife. Thus in the MA, commensality is more important than consexuality for the retention of caste.

A meaningful discussion in the book turns on the question of examining the state's role in the light of MA in the last several sections of it. The objective behind the compilation of MA is set out in its preface: one objective is said to be 'homogenising the application of the Law for the whole country' and, the other, meting out a uniform punishment to all the people according to their guilt and caste. The MA, thus, appears to integrate within itself the juristic traditions of two different ages. The urge for homogeneisation has probably its genesis in the awareness of a modern state felt through the person of the then ruler and promulgator of MA, Jung Bahadur Rana (1846-1877 A.D.), which might have developed out of his contacts with the British Indian Government and from the impact of his visit to England and France in 1850 A.D. The codification of the MA and the authority bestowed on it for the dispensation of justice through the various appointed courts and offices of the government are more in line with the acts of a modern state. (It is believed many punishments in the MA are less severe and harsh than what these were in the pre-codification days). However, the MA seems to support and perpetuate a Hindu society that is quite traditional in its functioning and outlook. Its various laws on social interaction between groups and between individuals of the same group invoke a much older Hindu society. Many categories of offences enumerated in the MA draw a close similarity with the *Arthashastra* of Kautilya than is usually thought by most people. In the same way, the idealistically visualised system of social relationship of caste based on *dharma* is derived in its entire spirit from the *smritis*, especially *Manusmriti*.

So, in the light of the above statement, to what class of work the MA must truly belong? Is it the legal code of a modern nation-state or merely a compilation of traditional Hindu law? No doubt, it is a little of both these things. However, its traditional overtones are more distinct. The state seems to enjoy much less power in

prescribing new laws in total disregard of the traditional and customary laws. The cases of Mecya (P. 100) and Tamang (P. 148) cited by Hofer to prove that the MA arrogated a greater power to its ruler than the ancient Indian legal tradition allowed its king to have, are small and isolated instances only. Actually, decisions regarding them had been taken as corrective actions of MA's previous ignorance of acknowledged empirical facts. In the traditional Indian concept of law, the state's (the king's) role appears to have always lain in merely being a punisher. The enunciation of law itself came through accepting customary laws or was the handiwork of Brahmans, who knew what the moral-ethical world ought really to be. This overall spirit of separation of authority is generally followed by the MA also.

On the basis of MA the state's rôle in caste gains certain new dimensions in Nepal vis-a-vis India, which may be summarised as follows:

- i. Nepali society has a strictly defined hierarchy, whereas this can get attenuated in India, from region to region;
- ii. its laws are prescriptive backed by a state authority and felt with equal force throughout the state's boundaries;
- iii. it has centralised rules for punishing infringement of caste offences;
- iv. social mobility is strictly regulated and is allowed only individually in the approved manner (this is in marked contrast to the Indian village situation. A.C. Mayer, in his book *Caste and Kinship in Central India* (1960; Routledge & Kegan Paul, London) says in respect of Central India: "One must note that a rich individual or one who has influence with officials or politicians cannot change his rank alone. The entire caste-group must change with him" (p. 49).

In passing, I should probably mention a couple of minor errors which have appeared in the book due to minor misunderstanding of the text of the MA. On p. 57, Hofer derives a wrong import in saying that salt can act as a purifier of food. If anything, salt does just the opposite. On p. 73 and p. 112, he mentions that a Upadhyaya Brahmin has the freedom to refuse to eat from his properly wedded Upadhyaya wife married as a virgin. The actual line (MA p. 389 # 34) clearly mentions that such a wife to whom he may do so is a *lyayako* i.e., wed without proper marriage rites. There is similarly a little confusion (p. 45) between the term *Kumal* (an ethnic group of the river valleys of Central Nepal) and *kumale* (Nepali term for potter which exclusively comes from a sub-caste of the Newar Jyapu).

The book is an outstanding contribution to Nepali studies in an area of great importance the utility of which will be realised more fully by further studies, for which we are all so grateful to Hofer.

P.R.S.

REPORT FROM LHASA. 1979. BY DOR BAHADUR BISTA, Sajha Publications, Kathmandu. Price: Rs

The report furnishes general reading material on Tibet in the wake of its take-over by the communist government of the People's Republic of China in 1959. It describes places in and around Lhasa that the author was invited to visit in his official capacity by the government and officials of Tibet, during his stay there. The author was Chief Consul at the Royal Nepali Consulate Office in Lhasa for nearly three years during the period 1972-1975. The writing, rendered in a personalized style, is based on the author's impressions and observations made of the new Tibet under the communist regime. There is no specific theme or focus of the book. It rambles like the diary of an amiable diplomat who is pleased by the change and progress made by Tibet under the communist regime of China in all spheres of its life. There is a description of the author's journey to Lhasa by the overland route across the Kodari bridge on the Nepal - Tibet border containing some highlights of the Tibetan landscape and the new hamlets and settlements along the route. Other accounts include descriptions of communes, parks, factories, theatres and some of the old monastic centres, new changed into museums. Several sections towards the end of the book are devoted to describing persons of Nepali or mixed Nepali and Tibetan parentage living in Lhasa in connection with their trade. Some of them have problems with regard to the transfer of their property from Tibet. How one wishes that this aspect had been treated at some length and that the author had taken this moment to delve into the history of these people in Tibet and trace the roots of the present problem. However the book endeavours to scrupulously avoid anything that might even remotely be called polemical about China-Nepal relations, and the narrative is thus cautious and subdued in tone. The text is illustrated with a few photographic cliches of Tibet. The absence of a map of Tibet from the book is, however, somewhat puzzling.

A NEPALESE DISCOVERS HIS COUNTRY. BY PRAKASH A. RAJ. Sajha Prakashan, Kathmandu, Nepal, Price Rs 25.00.

This small booklet suffers from two basic flaws that no book of any merit should ever suffer from. First, it has no subject matter of general interest. Secondly, its rendering style is dull and commonplace. One might even be a little irked with the somewhat presumptuous title which arouses a lot of expectations in the readers at first. The book is written as an autobiographic sketch, but in a manner which appears no little queer for an autobiography; members of the family about whom mention is made, are not identified by their names anywhere. The grandfather of the author is praised in high and glowing terms for his exploits and achievements made in the Rana regime. Yet, nobody is able to say what such a distinguished person was called by reading the book.

To the author, the reason for dashing off the present book lay in his perceiving of himself as a frant-ranking representative of Nepal's socio-economic and political transition period in 1951. There is no doubt indeed about his meeting these qualifications. Besides being born in this transition period, he hails from a Brahmin family which had played no mean role during the Rana regime. Being able to use such a vantage point presented to him by his family background, one cannot help feeling that a fascinating book could have been made out of it by using a little imagination. The family was the one which throughout had provided the Rana rule with the *Badaguruujya* (the hereditary post of the Chief Royal Religious Authority) to the Rana rulers. Thus one expects not too unreasonably perhaps that the author had tapped the family archives or made use of the family gossip that he might have overheard for making the material of the book and giving new insights into the ways and manners of Rana court-life, the power, authority and functions exercised by his grandfather in Nepal, and about the flurries and anxieties faced by the tottering regime near the time of its downfall in 1951. It would not be wrong to presume that the author's grandfather himself could not have looked at these developments with equanimity since he was such a strong prop of the Rana regime throughout his life. Instead of being any of these things, the book is merely a redaction of some well-known facts, already told by so many hands in more authentic and documented forms. Occasional details of the family accounts are the only original parts of the book, and perhaps the only interesting parts, as well. One

last point. The incident of the author being taken for admission to an ordinary school inside the town of Kathmandu by his grandfather immediately after the political changeover (p. 48) seems to me to be a case of some sociological significance for Nepal. Aristocratic pride and norms appropriate to it exhibited in the living style of certain people, seems to wear off as quickly as it had first appeared in Brahmins and, probably, in a few other castes, too. More lasting pretensions of the aristocratic behaviour are wont to be the expressions of families belonging to one of two specific caste groups, who in such doings believe themselves to be emulating the higher lifestyles of the erstwhile Rana palaces. These people expect others to be addressing them in a more servile and obsequious form of court language that falls out of tune with the modern times.

ARCHAEOLOGICAL REMAINS OF KAPILAVASTU, LUMBINI, DEVADAHA. BY BABU KRISHNA RIJAL, 88 pages, 45 illustrations. Published by Educational Enterprises (Pvt.) Ltd., Kathmandu. Price Rs 65.00.

This small book, written by an expert from the Archaeological Department, HMG Nepal, is an attempt to present an up to date record of the archaeological remains of the Nepal tarai area around Lumbini, the birthplace of the Buddha. Chapter One on Kapilavastu gives an account of what is known of Kapilavastu, the home of the Buddha, from ancient Buddhist texts and the accounts of the Chinese travelers who visited it in the fifth and seventh centuries A.D. Chapter Two on Lumbini gives a short historical account of the site and an account of the archaeological activities that have taken place there since the site was rediscovered in 1901. Chapter Three is concerned mainly with the identification of the remains of the stupa in Deoriya village in Parasi as the Ramagrama Stupa of the ancient Buddhist accounts.

Chapter Four takes up the question of the identification of Kapilavastu. Kapilavastu, the home of the Buddha must be distinguished from Lumbini his birthplace which was a grove on the way between his father's home and his mother's paternal home. Lumbini is positively identified by the Ashokan pillar marking the spot; no such positive evidence has been found for Kapilavastu. The author outlines the early speculations on the location of Kapilavastu by orientalists in the last century and the final identification of Tilaurakot (about



two miles north of Taulihawa in the Nepal tarai) as the site of Kapilavastu by P.C. Mukherjee. The rest of this chapter and the whole of the next chapter deal with the excavations at Tilaurakot in 1962 and 1967. Chapter Five gives an account of the chronology of the site from archaeological strata, an account of the structures excavated, and the items of archaeological interest found in the course of the excavations.

The book has two appendices which take up the now controverted identification of Tilaurakot as Kapilavastu. The controversy has arisen because of the archaeological finds at Piprahwa, about three miles south of Lumbini in the Indian state of Uttar Pradesh and the claims of K.M. Srivastava, the archaeologist in charge of these excavations, that Piprahwa is Kapilavastu. The first appendix, an Archaeological Department handout as well as some of the author's own remarks in Chapter Four, unfortunately, generate more heat than light, but the author's point is valid: Srivastava's conclusions go far beyond what his evidence will support. The second appendix by A.D.T.E. Perera of Sri Lanka is a reasoned and balanced assesment of the whole question. He too concludes that, judging by the available archaeological materials at the two places, it is more justifiable to identify Tilaurakot as Kapilavastu than Piprahwa.

One thing that is evident from this account is that there is much work left to be done at Tilaurakot. Only a few of the several mounds within the ancient walled complex have been excavated and the remains of the villages across the river from the walled complex have not been touched. Further excavation and preservation of the excavated sites might well settle the whole controversy and would certainly enhance the whole area as a pilgrimage site for the numerous Buddhists from all over Asia who now come to Lumbini and whose number will increase considerably with the development of the Lumbini site.