



## 9. Some Characteristic Legal Institutions of Nepal.

Leonhard Adam

*Man*, Vol. 35 (Jan., 1935), 12-13.

Stable URL:

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*Man* is currently published by Royal Anthropological Institute of Great Britain and Ireland.

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Chetri, Magar, Gurung, Rai, Limbu and Newar; but there are many more, too numerous for mention here. Most of these tribes are very Mongoloid in appearance and have many affinities with adjacent Tibet, although Hinduism is the official religion of the country. They are composed of a number of exogamous clans and kindreds, and there are several varieties of cross-cousin marriage; but this custom is not universal. Nepali is the *lingua franca* of the country, but many tribes also speak their own Tibeto-Burman dialects. The country, which is completely independent and forms no part of India, is entirely closed to foreigners, which includes also Indians, except at the personal invitation of the Maharaja. This permission is only very occasionally given and is generally confined to the Valley of Nepal, where is situated Kathmandu, the Capital. Apart from the fact that Nepal is politically secluded, the country is also naturally difficult to reach and has few communications; for these reasons it is perhaps one of the most promising fields for ethnological study on the Indian Continent.

**Some characteristic Legal Institutions of Nepal.** *Summary of a Communication by Dr. Leonhard Adam, 4th December, 1934.*

**9** I. The law of the various tribes of Nepal is comparatively little known. The main source is still Brian H. Hodgson's classical work *Miscellaneous Essays relating to Indian subjects* Vol. II (London, 1880). But Hodgson did no field work on tribal law in Nepal. Though he lived in the country many years he had no personal experience of the practical law as applied in the remote districts. He could only refer to experts in the country, educated men in the Nepalese sense of the term, whose detailed answers he noted. Among valuable details, there is almost complete lack of notes on civil law.

II. It was, then, an exciting event for German orientalisists when Gurkha soldiers were made prisoners on the West Front. Prof. *Heinrich Lüders*, and Prof. *Wilhelm Schulze*, were requested by the Prussian Academy of Sciences to study their languages and dialects, and Dr. Leonhard Adam was appointed in 1918 by the Prussian Minister of Justice, Dr. Peter Spahn, to record customs and tribal law and located in Roumania, where the climate and conditions were more suitable than in Germany.<sup>1</sup> Individual Gurkhas were carefully selected, who had spent a considerable part of their lifetime in the village where they were born and were really familiar with its inhabitants, their manners and customs. Individual intelligence was also important. But the only way to obtain trustworthy information is to persuade the man to talk about his own life, and personal experiences, and about the life of his relatives, friends, and neighbours.

The paper then dealt principally with the following topics :—

*Family Law* : (i) *Artificial Brotherhood*.—The description of the Gurkha *mīt* and *mītnī* (literally "friend") in Major Morris' book *The Gurkhas* (London, 1928) is confirmed. This relationship, between men or women, has a religious basis, and initial ceremonial in presence of a Brahman or *bahun*, by exchange of personal belongings; establishing incest barrier, obligation to help, and other characteristics of natural kinship, including the fathers and mothers, *mīt bā* and *mīt āmā*. One witness stated that a man may become *mīt* of a woman, or one married couple with another. Difference of tribe, too, is no obstacle. Functionally the *mīt* bond strengthens intertribal intercourse.

(ii) *Remarriage of Widows*.—Sylvain Levi in 1898 found widows under Brahman influence in Nepal: but Major Morris' statement that widows may remarry though without the *byāhā* ceremony, is confirmed, and in the Army a remarried widow has a pension claim, *i.e.*, is no concubine.

*Law of Property*, especially *loans* and *securities*.—While in ancient Indian law actual possession of a security was required, this is unusual in Nepal. Money is lent in four different ways: (1) without written instrument or witness, if creditor thinks debtor trustworthy: default is here without remedy; (ii) with written agreement and a witness, the debtor promising to give specified security *dik* on default, in which event the creditor moves the *mukhiya* to order the *dik* to be surrendered; (iii) for larger amounts there is a second witness *gawahi* who signs the *damsuk* and guarantees the surrender of the *dik*; (iv) the creditor may require the debtor *bandā* to refund the debt by field work. Typically Nepalese is the promise of security in event of default: but under Indian influence unpaid debts haunt the debtor in his future existence, so that the merits of his sacrifices and prayers are set down to

<sup>1</sup> For the Indian camp in Morile-Marculesti, see L. Adam, MAN, 1934, 23.

his creditor. It is the syncretism of languages and religions in a Tibeto-Burmese stock with Indo-Aryan caste of conquerors, that makes Nepalese law so interesting. Art and religion confirm this. But ethnological jurists must recognize also an aboriginal population, the Newars, representative of Nepalese art and literature, and transmitters remarkable beliefs and institutions: *e.g.*, the frog worship described by Waddell, *Indian Antiquary*, xxii (1893).

This communication appears in full in *Zeitschr. f. Vergl. Rechtswissenschaft*, xlix.

**The Labyrinth in the megalithic areas of Malekula, the Deccan, Scandinavia, and Scotland: with special reference to the Malekulan geometric drawings collected by Deacon.** *Summary of a Communication presented by John Layard, 11th December, 1934.* 10

A comparative study of designs in different areas cannot be undertaken fruitfully *in vacuo*. Similarities in design are often fortuitous and 'due to a multitude of independent or convergent processes. Such study can be prosecuted with usefulness and certainty only if the ideas underlying the designs, and the mythology connected with them, are also taken into consideration.

An examination of the geometric drawings collected in Malekula, Ambrim and Oba by the late Bernard Deacon and published in the current number of the *Journal* (J.R.A.I., lxiv, Pt. 1, 1934) together with others collected by Dr. Firth in Raga and by the speaker in Atchin, show that they are all based on two types: Class A composed of a continuous line having a definite beginning and end, meandering on a linear framework, and Class B composed of a continuous never-ending line enclosing a space. Evidence is brought forward showing the close connection existing between the megalithic culture of these islands with that of the Ancient East and Europe. The mortuary mythology connected with the Malekulan geometric drawings is then discussed, and the conclusion is drawn that the basic origin of Class A is the delineation of the path (the continuous line having beginning and end) traced when threading the mazes of the labyrinthine tomb (the linear framework), and that the basic origin of Class B is the human form representing the body of the dead king, Lord of the Underworld. The steps leading to the degradation and intermixture of these two types are discussed not only from the typological point of view but from the psychological, the various typological processes being intimately connected with the progressive degradation of belief and with the loss of exact mythological knowledge, and being conditioned by the attempt to reconcile what, through historical causes, had become apparent contradictions.

Reference is made to the maze-dances of Malekula and to certain elements in the decoration of mats as well as in tattooing, which are shown to be derived from the same source.

Similar designs drawn by women on the threshold of houses in the central megalithic area of the Deccan, and by tattooers and magicians show the same motives and include actual diagrams of mazes, undoubtedly connected with the true labyrinths constructed out of stone still extant in this area.

Reference is made to the megalithic labyrinths of Sweden, and to the labyrinthine designs on other megalithic monuments of Western Europe, demonstrating the close interconnexion existing between all these megalithic cultures; also to the "tangled-thread" designs still drawn by Scottish women on the thresholds of their homes.

Finally, the labyrinthine motive will be shown to be still living in the form and ritual of the Cross as practised in the Roman Church to-day.

## REVIEWS.

**The Colour Problems of South Africa.** *By Edgar H. Brookes. (Phelps-Stokes Lectures, Cape Town, 1933.) London: Kegan Paul, 1934. 237 pp. Price 5s.* 11

Dr. Brookes is known to students by his 'History of Native Policy in South Africa,' first published in 1923. He acknowledges that the march of events and the development of his own thought have altered his opinions in some respects. In the former work he argued in favour of segregation in a limited sense—some measure of it, he said, being "an essential to the solution of the Native problem."

Complete segregation he then declared to be "totally impracticable." He still holds this view; the "melancholy narrative" of legislation during the past twenty years only confirms it. Dr. Brookes now goes farther and declares (in italics) that any scheme of segregation considerable enough to affect vitally South Africa's political, economic and social life is impossible. What then? If the Africans within the Union are not to have restored to them much of the land that once was theirs, so that they can develop their own culture on their own lines, are they to be given equal opportunities with