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The Nepalese Mulukī Ain of 1854 and its relation to Dharmaśāstra sources: the example of death and mourning rituals

Abstract

The Nepalese Mulukī Ain (MA) of 1854 with its 163 chapters and nearly 1400 pages is a unique law because it is based on an extensive observation and evaluation of the social practice in the kingdom rather than normative values of the Brahmins. This legal code, the first book ever printed in Nepal, was enacted during the reign of king Surendra Vikrama Śāha (regn. 1847-81) and prepared at the initiative of Jaṅga Bahādura Rāṇā (1846-57). It is influenced by Western and Islamic law but indirectly also refers to Dharmaśāstra sources, if only by the fact that the majority of the various Nepalese law councils consisted of Brahmins. In my paper I will try to elaborate on this relationship focussing on the death and mourning rituals, i.e. the 95th chapter „On carrying the dead body“ (*murdā uṭhāunyā*), the 96th chapter „On informing about death incidents“ (*maryo bhani sunāunyā*) and the 97th chapter “On observing death impurity” (*āsauca vārnyāko*). These chapters and their altogether seventy-six paragraphs deal with many aspects of the corpse and mourning in relation to the social hierarchy of mid-19th century Nepal considering much customary law. Special attention must be given to questions of purity and redemption (*prāyaścitta* and Nep. *patiyā*). My study is based on extensive fieldwork and textual work on Nepalese, mainly Newar death rituals (N.Gutschow/A. Michaels, *Handling Death: The Dynamics of Death and Ancestor Rituals Among the Newars of Bhaktapur, Nepal*. Wiesbaden 2005) as well as on critical editions and translations of several chapters of the MA (e.g. the chapter on the religious judge or *dharmādhikārin*: A. Michaels, *The Price of Purity*. Torino 2005). It will be argued that brahmanical norms of dealing with death were superimposed on a number of variant ways of handling death.