

BRIEF REMARKS

REGARDING

MODERN ENCROACHMENTS

ON THE

Ancient Rights of Females,

ACCORDING TO THE

HINDOO LAW OF INHERITANCE.

BY

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WITH a view to enable the public to form an idea of the state of civilization throughout the greater part of the empire of Hindoostan in ancient days,* and of the subsequent gradual degradation introduced into its social and political constitution by arbitrary authorities, I am induced to give as an instance, the interest and care which our ancient legislators took for the promotion of the comfort of the female part of the community; and to compare the laws of female inheritance which they enacted, and which afforded that sex the opportunity of enjoyment of life, with that which moderns and

[illegible]

our cotemporaries have gradually introduced and established, to their complete privation; directly or indirectly, of most of those objects that render life agreeable.

At the ancient lawgivers unanimously awarded to a mother an equal share with her son in the pro-

resolvent that the legislative authority should be confined to the few cases which could have no share in the total government of the state or in managing the revenue of the country or any province; while the second should should exercise the executive authority. The consequence was that the Brahmins enjoyed peace and tranquility in their native countries. The Brahmins having no execution of civil or criminal justice or of punishing of any kind of law or religion, devoted their time to scientific pursuits and religious exercises, and lived in poverty. Freely associating with all the other tribes they were that they know their sentiments and to create the status of their complaints and thereby to lay down the law as were required, which often induced them to rectify the law as it were practiced by the people. But for the experience of more than 100 years, the British form of government came gradually as a result of the first class having been not only accepted by the British but also by the partners, and they were dependent on the second class and so on and so on themselves, that they were obliged to explain away the laws made by the first fathers, and to institute new rules according to the demands of the times. They were enabled to do this merely by the delegation of power to the legislative executive which was exercised by the Rajas. But the exercise of the power of the Rajas was not of long duration. It was not until the time when Muhammadan invasion came and China, and other countries, and finally the British and the British of the British provinces established their power over the British and the British of the British provinces, and in the time their own system of government was being to pass, and in the time the British and the British of the British provinces. A present the whole empire (with the exception of a few provinces) has been placed under the British power; and the British and the British of the British provinces derived from the British and the British of the British provinces. The British and the British of the British provinces, and the British and the British of the British provinces, will however be more adequate to produce on the real advantages of the government.

property left by her deceased husband, in order that she may spend her remaining days independently of her children; as is evident from the following passages.

YAGNUPULKYU (পিতৃরূপে বিভজ্যতাং মাতার্যোশ্চ
সমং হবৎ) “After the death of a father, let a mother
also inherit an equal share with her sons in the di-
vision of the property *left by their father.*”

KATYAYUNU (মাতাচ পিতরি পুতে পুত্রতুল্যা
মহারিণী) “The father being dead, the mother
should inherit an equal share with the son.”

NARUDU (সম্যং হারিণী মাতা পুত্রাণাং সম্যমুভেদাৎ)
“After the death of a husband, a mother should re-
ceive a share equal to that of each of his sons.”

VISHNOO THE LEGISLATOR (মাতরঃ পুত্র
ভাগনিমিত্তং ভাগং হারিণ্যঃ) “Mothers should be re-
ceive 3 of shares according to the portion allowed
to the sons.”

VRHUSPUTI (উদ ভাবেত্ জননী তনয়াংশ্চ সমাশ্রিতী
সম্যং মাতরেষুযাং তৃতীয়াং শাস্ত্রকন্যকাঃ) “After his
(the fathers’) death a mother, the parent of his sons,
should be entitled to an equal share with his sons;
their step mothers also to equal shares; but daugh-
ters to a fourth part of the shares of the sons.”

VYASU (असूतास्तु त्रीतुः पत्न्यः समागच्छन्तः प्रकीर्तिताः पितामहस्युचिताः सर्वा मातृत्वन्याः प्रकीर्तिताः) “The wives of a father by whom he has no male issue, are considered as entitled to equal shares with his sons, and all the grand mothers (*including the mothers and step mothers of the father*), are said to be entitled as mothers.”

This Mooni seems to have made this express declaration of the rights of step-mothers, omitting those of mothers, under the idea that the latter were already sufficiently established by the direct authority of preceding lawgivers.

We come to the moderns.

The author of the Dayabhaga and the writer of the Dattatraya, the modern expounders of Hindoo Law (whose opinions are considered by the natives of Bengal as standard authority in the division of property among heirs) have ~~also~~ limited the rights allowed to widows by the above ancient legislators. When a person is willing to divide his property among his heirs during his life time, he should entitle only those wives by whom he has no issue, to an equal share with his sons; but if he omit such a division, those wives can have no claim to the property he leaves. These two modern expounders lay stress upon a passage of Yagnivalkya, which requires a father to allot equal shares

to his wives, in case he divided his property during his life; whereby they connect the term "of a father:" in the above quoted passage of Vyas viz; "the wives of a father: &c." with the term "division" understood; that is, the wives by whom he has no son are considered in the division made by a father, is entitled to equal shares with his sons; and that when sons may divide property among themselves after the demise of their father, they should give an equal share to their mother only, neglecting step-mothers in the division. Here the expounders did not take into their consideration any proper provision for step-mothers, who have naturally less hope of support from their step-sons than mothers can expect from their own children.

In the opinion of these expounders even a mother of a single son should not be entitled to any share. The whole property should, in that case, devolve on the son, and in case that son should die after his succession to the property, his son or wife should inherit it. The mother in that case should be left totally dependent on her son or on her son's wife. Besides according to the opinion of these expounders, if more than one son should survive, they can deprive their mother of her title, by continuing to live as a joint family (which has been often the case) as the right of a mother depends as they say, on division, which depends on the will of the sons.

Some of our contemporaries, (whose opinion is received as a verdict by Judicial Courts), have further reduced the right of a mother to a mother nothing; declaring, as I understand, that if a person die, leaving a widow and a son or sons, and also one or more grand-sons, whose father is not alive, the property so left is to be divided among his sons and his grandsons; his widow in this case being entitled to no share in the property; though she might have claimed an equal share, had a division taken place among those surviving sons and the father of the grandson while he was alive.* They are said to have founded their opinion on the above passage entitling a widow to a share when property is to be divided among sons.

In short, a widow according to the exposition of the law, can receive nothing when her husband has no issue by her; and in case he dies leaving only one son by his wife, or having had ~~more~~ sons, one of whom has happened to be leaving issue, she shall in these cases also have no claim to the property; and again should any one leave more than one surviving son, and they being unwilling to allow a share to the widow, keep the property undivided, the mother

* This exposition has been (I am told) settled by the Supreme Court in consequence of the Judges having previously decided for the position of the Pundit which turned out to be at variance with those of the majority of the regular advisers of the Court in points of Hindu Law.

can claim nothing in this instance also. But when a person dies, leaving two or more sons, and all of them survive and be inclined to allot a share to their mother, her right is in this case only valid. Under these expositions, and with such limitations both step-mothers and mothers have in reality been left destitute in the division of their husband's property, and the right of a widow exists in theory only among the learned, but unknown to the populace.

The consequence is, that a woman who is looked up to as the sole mistress by the rest of a family one day, on the next becomes dependent on her sons and subject to the slights of her daughters in law. She is not authorized to expend the most trifling sum or dispose of an article of the least value without the consent of her son or daughter in law, who were all subject to her authority but the day before. Cruel sons often wound the feelings of their dependent mothers deciding in favour of their own wives, when family disputes take place between their mothers and wives. Step-mothers, who often are numerous on account of polygamy being allowed in these countries, are still more shamefully neglected in general by their step-sons, and sometimes dreadfully treated by the sisters in law who have fortunately a son or sons by their husband.

It is not from religious prejudices and early impressions only, that Hindoo widows burn themselves

on the piles of their deceased husbands, but also from their witnessing the distress in which widows of the same rank are involved, and the insults and slights to which they are daily subjected, that they become in a great measure regardless of existence after the death of their husbands: and this indifference, accompanied with the hope of future reward held out to them, leads them to the horrible act of suicide. These restraints on female inheritance encourage, in a great degree, polygamy, a frequent source of the greatest misery in native families: a grand object of Hindoos being to secure a provision for their male offspring, the law which relieves them from the necessity of giving an equal portion to their wives, removes a principal restraint on the indulgence of their inclinations in respect to the number they marry. Some of them especially Brahmans of higher birth marry ten, twenty or thirty women, either for some small consideration, or merely to gratify their brutal inclinations, leaving a great many of them both during their life time and after death, to the mercy of their own paternal relations. The evil consequences arising from such polygamy, the public may easily guess, from the nature of the fact itself, without my being reduced

The horror of this practice is so far from being natural feelings of nature that even Madhav Singh, a Hindu of the highest rank (a Brahmin) himself, through compulsion took upon himself (I am told) to limit the Brahmans of his caste to four wives only.

to the mortification of particularising those which are known by the native public to be of daily occurrence.

To these women there are left only three modes of conduct to pursue after the death of their husbands. 1st To live a miserable slave as entire slaves to others, without indulging any hope of support from another husband. 2ndly. To walk in the paths of righteousness for their maintenance and independence. 3dly. To die on the funeral pile of their husbands, loaded with the applause and honour of their neighbours. It cannot pass unnoticed by those who are acquainted with the state of society in India, that the number of female suicides in the single province of Bengal, when compared with those of any other British provinces, is almost ten to one: we may safely attribute this disproportion chiefly to the greater frequency of a plurality of wives among the natives of Bengal and to their total neglect in providing for the maintenance of their females.

This horrible polygamy among Brahmuns is directly contrary to the law given by ancient authors; for Yagnuvalkyu authorises second marriages when the first wife is alive, only under eight circumstances.—1st. The vice of drinking spirituous liquors. 2dly. Incurable sickness. 3dly. Deceit. 4thly. Barrenness. 5thly. Extravagance. 6thly. The frequent use of offensive language. 7thly. Producing only fe-

male offspring. Or, 8thly. Manifestation of hatred towards her husband. (স্বামী প্রতি ঘৃণা বক্ষ্যার্থে যুগ্মপদ) বদ।। স্ত্রীপুস্কৃতি বেত্তব্য পুরুষ দোষীতথ।) Minor chap 9th. v. 80th "A wife who drinks any spirituous liquors, who acts immorally, who shows hatred to her lord, who is incurably diseased, who is intemperate, who wastes his property, may at a time be superseded by another wife. (নদ্যাপি সধিবৃত্তি প্রতিবন্ধকতা ভবেৎ। ব্যাধিতা বাধি বেত্তব্য হি° স্মার্তদ্ব্যুৎসর্গদ) 81st "A barren wife may be superseded by another, in the eighth year; she, whose children are all dead in the tent; she, who bears only daughters in the eleventh; she, who is accustomed to speak unkindly, without delay; (বক্ষ্যতে মেধি বেত্তব্যদ্ব্যুৎসর্গদ) দশমেও মৃতপুত্র। এক দশে স্ত্রীভবনী সন্তুষ্টি পুত্রবান্ধব) 82nd "But she, who, though afflicted with illness, is beloved and virtuous, must never be disgracefully supplanted though she may be superseded by another wife with her own consent." (যদিবাগিনী স্যাদুহিতা সন্তুষ্টি চরম পতঃ ০° সানুজ্ঞাপ্যধি বেত্তব্য নাবমান্যচ কহি চৎ) and

Had a magistrate or other public officer been authorized by the emperors of the Empire to receive applications for his sanction to a second marriage during the life of a first wife, and to grant his consent only on such accusations as the foregoing being substantiated, the above law might have been rendered effectual, and the distress of the female sex in Bengal and the number of suicides would have been necessarily very much reduced.

According to the following ancient authorities a daughter is entitled to one fourth part of the portion which a son can inherit.

VRĪHUSPUTI (ভূম্যোশাস্ত্রকন্যকঃ) — “The daughters should have the fourth part of the portion to which the sons are entitled.”

VISHNOO (অনুচাঞ্চ দহিতরঃ পুত্রভাগানুসারিঃ) — “The rights of unmarried daughters shall be proportioned according to the shares allotted to the sons.”

MUNOO ch. ix v 118. (স্বভোগ্যেইশে ভ্যস্ত কন্যাভ্যঃ
দুদ্যুভিতরঃ পৃথক্শাখ্য স্বাদং শাচকৃতভাগং পতিভ্যঃ সূর্যদি
কঃ) — “To the unmarried daughters at their brothers give portions out of their own allotments respectively. Let each give a fourth part of his own distinct share, and they who feel disinclined to give his shall be condemned.”

YAGNUPVULKYU (অসংস্কৃতাস্তসং স্কার্য ভ্রাতৃভিঃ পূর্
বস্কৃতৈঃ । ভগিন্যশ্চ নিজাদ শাদজ্ঞাশ্চ তৃতীয়কঃ) — “Let such brothers as are already purified by the essential rites of life purify by the performance of those rites the brothers that are left by their late father unpurified ; let them also purify the sisters by giving them a fourth part of their own portion ”

KATYAYUNU (কন্যকানাং মদন্তানাং চতুর্থোভাগ উচ্য
তে পুত্রাণাঞ্চ ত্রয়ো ভাগাঃ স্বাম্যং যজ্ঞপনেন্মৃতং) — “A fourth part is declared to be the share of unmarried daughters

ters, and three fourths of the sons; if the fourth part of the property is so small as to be inadequate to defray the expences attending their marriage the sons have an exclusive right to the property, but shall defray the marriage ceremony of the sisters. But the commentator on the Dayabhaga sets aside the rights of the daughters declaring that they are not entitled to any share in the property left by their fathers, but that the expences attending their marriage should be defracted by the brothers.—He founds his opinion on the foregoing passage of Munoo and that of Yagyavalky, which, as he thinks, imply mere donation on the part of the brothers from their own portions for the discharge of the expences of marriage.

In the practice of our contemporaries a daughter or a sister is often a source of emolument to the Brahmins of less respectable cast, (who are mostly numerous in Bengal) and to the Kayasths of higher cast: These so far from spending money on the marriage of their daughters or sisters, receive frequently considerable sums, and generally bestow them in marriage on those who can pay most. Such Brahmins and Kayasths I regret to say, frequently marry their female relations to men having natural defects or worn out by old age or disease, merely for pecuniary considerations; whereby they either

* Rajah Sen murder the great grandfather of the present Rajah of Noida received the cruel practice of the sale of daughters and sisters throughout his estate.

bring widowhood upon them soon after marriage or render their lives miserable. They not only degrade themselves by such cruel and unmanly conduct, but violate even the express authorities of Munoo and all other ancient lawgivers; a few of which I here quote.

MUNNOO ch. 3d. v. 51 (नकुन्यानाः पितामह न गृहीयात् शुलभृषि । गृह्णन् हि शुलं लोभेन स्याद्वैव २ पाठ) विक्रयी)
 “Let no father, who knows the law, receive a gratuity, however small, for giving his daughter in marriage; since the man, who, though avarice, takes a gratuity for that purpose, is a seller of his offspring.”

CH. 9th. V. 98 (नानुष्ठानमजातवत् पृथ्वीं पितृव्यं शुलं दुहितुः दत्तम् । शुलं हि गृह्णन्तुः ३ छन्नं दुहितृविक्रयम्) “But even a man of the servile class ought not to receive a gratuity when he gives his daughter in marriage; since a father who takes a fee on that occasion, tacitly sells his daughter.”

V. 100 — (नानुष्ठानमजातवत् पृथ्वीं पितृव्यं शुलं दुहितुः दत्तम् । शुलं हि गृह्णन्तुः ३ छन्नं दुहितृविक्रयम्) “No; even in former births, have we heard the *virtuous* approve the tacit sale of a daughter for a price, under the name of nuptial gratuity.”

KASHYAPU. (धनैर्न येषु यद्वृद्धिं भवति लोभेन हितम् । कन्याविक्रयिणः पापम् । महाविद्वान् ४० श्लो०) “Those who, infatuated by avarice, give their own daughters in marriage for the sake of a gratuity, are

the sellers of their daughters, the images of sin, and the perpetrators of a heinous iniquity." so
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Both common sense, and the law of the land designate such a practice as an actual sale of females; and the humane and liberal among Hindoos, lament its existence, as well as the annihilation of his female rights in respect of inheritance introduced by modern expounders. They, however, trust, that the humane attention of Government will be directed to those evils which are chief sources of poverty and misery and even suicide among women; and to this they are encouraged to look forward by re-what has already been done in modifying, in criminal cases, some parts of the law enacted by the Mohummudan Legislators, to the happy prevention of many cruel practices formerly established. to
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How distressing it must be to the female community and to those who interest themselves in their behalf, to observe daily that several daughters in a rich family can prefer no claim to any portion of the property, whether real or personal left by their deceased father; if a single brother be alive; while they (if belonging to a Koojen family or a Brahmin of higher rank) are exposed to be given in marriage to individuals who have already several wives and have no means of maintaining them. 1
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Should a widow or a daughter wish to secure her right of maintenance, however limited, by having

recourse to law, the learned Brahmuns, whether holding public stations in the courts or not, generally divide into two parties, one advocating the cause of those females and the other that of their adversaries. Sometimes in these or other matters respecting the law, if the object contended for be important, the whole community seems to be agitated by the exertions of the parties and of their respective friends in claiming the verdict of the law against each other. In general however a consideration of the difficulties attending a law-suit, which a native woman, particularly a widow, is hardly capable of surmounting, induces her to forego her right; and if she continue virtuous, she is obliged to live in a miserable state of dependence destitute of all the comforts of life; It too often happens however that she is driven by constant unhappiness to seek refuge in vice.

At the time of the decennial settlement in the year 1793, there were among European gentlemen so very few acquainted with Sanscrit and Hindoo law that it would have been hardly possible to have formed a Committee of European oriental scholars and learned Brahmuns, capable of deciding on points of Hindoo Law. It was therefore highly judicious in Government to appoint Pundits in the different Zillah Courts, and Courts of Appeal, to facilitate the proceedings of Judges in regard to such subjects; But as we can now fortunately find many European

Gentlemen capable of investigating legal questions with but little assistance from learned Natives, how happy would it be for the Hindoo community, both male and female, were they to enjoy the benefit of the opinion of such Gentlemen, when disputes arise, particularly on matters of inheritance.

Lest any one should infer from what I have stated, that I mean to impeach, universally, the character of the great body of learned Hindoo Priests, I declare, positively, that this is far from my intention: I only maintain, that the Native community place greater confidence in the honest judgment of the generality of European Gentlemen than in that of their own countrymen. But should they all Natives receive the same advantages of education that Europeans generally enjoy, and be brought up to the same notions of honour, they will, I trust, be found, equally with Europeans, worthy of the confidence of their countrymen and the respect of all men.



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VITAL STATISTICS

OF

THE EAST INDIA COMPANY'S ARMIES IN INDIA,

EUROPEAN AND NATIVE.

By LIEUT^{NT}-COL W. H. SYKES, *Vice President of the Royal Society*

I MAY premise, that the whole of the following data are supplied from official sources in India; and the systematic-manner in which, it would appear, the facts have been for so many years collected and recorded in India, affords a satisfactory guarantee, barring graphic errors, of the general accuracy of the record; indeed the absolute necessity that exists for every regiment accounting for every soldier upon its rolls, and the frequently recurring periodical musters, render mistakes extremely difficult, and I can, from my experience as an Adjutant and Commanding Officer, unhesitatingly express my conviction that non-effective men in the Indian army could not escape observation.

I propose to arrange the documents now submitted to the Society in three distinct classes or sections 1st. The Vital Statistics of the Bombay Native Army, at every age from 20 to 52, for the years 1842, 1843, and 1844 2ndly. The Vital Statistics of the Indian Army, European and Native, from 1825 to 1844 both inclusive And, 3rdly. The Vital Statistics of the Pension Establishments of the Native Armies of the three Presidencies.

The first class of documents was drawn up by the Military Auditor General in Bombay, General Baird, with a view to determine the effect of the climate of Scinde upon the health of the troops employed in that province. The second class of documents results from an order of the House of Commons, upon the motion of Mr Hume, and the third class forms part of the periodical returns made from the Governments of India to the India House. The returns of the first and second classes comprise also the sickness and invaliding of the troops.

I cannot enter upon my subject without expressing, in the strongest manner, my obligations to our valuable coadjutor, Mr. Neison, who, with that indefatigable perseverance, love of his subject, and readiness to oblige, of which he has already given us so many proofs, has laboriously worked out for me the tables which I shall have to notice.

The original returns of the first class, for the years 1842-3 and 1844, independently of the sickness, mortality, and invaliding of the soldiers from the ages of 20 to 52, of every regiment of the Bombay army, exhibit also all casualties from desertions, discharges, transfers, &c., together with the country and caste of every soldier, the station at which the regiment was located for each year, and the dates of arrival and departure. A distinct return is made for the troops serving in Scinde. As these Returns, from their lengthened and elaborate character, may not be adapted for the pages of the Society's Journal, I have deemed this explanation of their character called for. The more so, as I have reason to believe that returns of this kind are unique, whether relating to the India Company's Army or the Royal troops serving in India.

Even the reduced tables, arranged for every age, are adapted rather for the closet than for detailed explanation at a public meeting. I shall confine my notices, therefore, to an enumeration of the tables, and the final results of the whole Army for each year, and the mean results for the three years. Table I. gives the absolute mortality of the Bombay Army at every year of age from 20 to 52, for the years