SECTION III.

MARRIAGE.

Question 1.—Enumerate the relatives with whom marriage is unlawful.

Answer 1.—(*a*) A man may not marry a woman of (1) his own *got*, (2) his mother's *got*, (3) his father's mother's *got*, (4) his mother's mother's *got*. (Kumhár Hindú, Suthár, Tarkhán Sikh, Chamár, Chúhra, Herí, Oswál Banya, Gaur Bráhman.)

(*b*) A man may not marry a woman of (1) his own *got* or (2) his mother's *got*. He may marry a woman of the *got* of his father's mother or mother's mother, but not one nearly related to him, *i.e.*, related within three or four generations, such as his second cousin. (Bágrí Ját, Mahesrí Banya, Rora, Gujúra Gaur Bráhman, and Khandilwál Bráhman.)

Note.—These prohibited degrees seem to be nearly those prohibited by Manu, whose rule comes to this: A man may not marry a woman (1) of his own *got*, (2) of his mother's *got*, (3) descended from his paternal or maternal ancestor within the sixth degree.

(*c*) A man may not marry a woman of his own *got* or of the branch (*munhín*) to which his mother belongs. He may marry a woman of his mother's *got* outside that branch (*munhín*) or any woman of his grandmother's *got* not nearly related to him. (Sikh Jat.)

(*d*) A man may not marry a woman of his own *got* or related to him within three or four generations. He may marry a woman of any other *got*, even of his mother's. (Báwariya, Aggarwál Banya, Sársut Bráhman, Párik Bráhman, Dáhmán Bráhman.)

Note.—Among all Hindú tribes, a man is forbidden to marry in his own *got*. The widest prohibition forbids marriage in the four *gots* (1) own, (2) mother's, (3) father's mother's, (4) mother's mother's (*chár got talde hain*). The Chamárs and Chúhras seem to think that a man should also avoid marrying in his stepmother's *got*. The Hindú Suthárs forbid a man to marry in his mother's village, but among most tribes there is no restriction of this kind, and ordinarily

a man may marry a woman even of his own village. Among the Gaur Bráhmans the prohibition extends to the *sásan* as well as to the *got*.

All Musalmáns follow the Muhammadan Law as regards prohibited degrees in marriage.

Note.—Among the Bodlas, Chishtís, Ráíns, Wattus, and Musalmán Jats and Rájpúts generally, first cousins frequently intermarry, and it is thought nice that they should do so. Musalmán Kumhárs and Bágrí Musalmán Lohárs do not allow first cousins to intermarry.

Question 2.—What physical defects will be sufficient ground for the annulment of a marriage which has actually taken place? State whether idiocy or lunacy, impotence or mutilation, are such sufficient grounds. Is any distinction made if the party seeking annulment knew of the defect at the time of the marriage, or if the defect have arisen after the marriage was consummated?

Answer 2.—No physical defect is considered sufficient ground for the annulment of a marriage which has taken place. (All tribes.)

Note.—It seems that not even impotence or idiocy is sufficient ground for annulling a marriage.

Question 3.—Are there any disabilities, other than those which arise out of blood relationship or physical defect, which operate to bar marriage? Can persons of different castes intermarry? If so, of what castes? Can persons of different religions intermarry? If so, what religions?

RELIGION.

Answer 3.—A man may not marry a woman of a religion different from his own.

Note.—A Musalmán sometimes marries by *nikáh* the daughter of a Hindú, but she is supposed to have become a Musalmán and is made to repeat the Kalima, to say *namáz*, and to keep the Musalmán fasts. Among the Aggarwál Banyas there is a dispute as to whether a Bishní or orthodox Hindú can marry a Saráogí or Jain, but this seems to be only a disagreement between sects, not a prohibition necessarily imposed by religion or tribal custom. Sikhs and Hindús may intermarry. These are considered to be different sects of the same religion, not different religions. Sikh Jats rarely give their daughters in marriage to Bágrí Játs, but there are some instances of this, and evidently there is no binding prohibition of this such as that against marrying into another tribe. The idea among the Sikh Jats simply is that the Bágrí Játs, though belonging to the same tribe as

themselves, are an inferior part of the tribe (the inferiority being marked, among other things, by the custom the Bágrí Játs have of allowing their women to do ordinary field work, while the Sikh Jat women do not work in the fields, and some of them are not even allowed to carry out their husband's food); and they do not like to send their daughters south among the Bágrís, but try to send them north among the Sikhs. Even marriages of a Sikh man with a Bágrí woman are comparatively rare, and they say that only poor men who cannot afford to purchase a Sikh wife have to content themselves with a Bágrí.

Caste.

(*a*) A man must marry in his own caste or tribe. (Bágrí and Sikh Jat, Kumhár, Khátí, Lohár, Chamár Chúhra, Báwariya, Herí, Banya, Rora, Bráhman, Ráín.)

(*b*) Marriage by *nikáh* with any one with whom it is allowed by Muhammadan Law is lawful and the children are legitimate. But each tribe intermarries by custom with only a few other tribes, and marriage with a woman of any tribe with which custom does not authorise marriage is considered improper, and the offspring are treated as impure and are generally not thought entitled to inherit the father's property. Marriages unauthorised by custom are very rare, except, perhaps, among the Wattus. (Bodlas, Chishtís, and Musalmán Jats and Rájputs.)

Note.—All Hindú tribes are very particular in maintaining the purity of the tribe and preventing the infusion of any strange blood. Should any member of the tribe marry a woman of another tribe or take her into his house to cohabit with him, a *pancháyat* of the brotherhood is quickly summoned and generally succeeds, by threatening to excommunicate him (*huqqa páni band karná*), in compelling him to part with her, and to pay a fine or give them a feast by way of expiation. The Jats, Sikh and Bágrí, admit that they are one great tribe or race and allow intermarriage with one another, but a Jat may not marry a woman of another tribe without the danger of being excommunicated, and having it denied that his son has any title to inherit. There are, however, some cases in which such offspring has succeeded, and a few Sikh Jats ventured to say that the offspring of a Tarkhání or Lohární, if a well-behaved woman married for no bad motive, might be allowed to succeed. The great majority of the Jats, however, scouted this idea, which evidently

is not consistent with custom and the general feeling of the tribe. Suthárs, Tarkháns, and Bágrí Khátís are all the same tribe and all intermarry, but the Suthárs try to hold themselves aloof from the other Khátís and ordinarily marry among themselves. Several other tribes or castes do not allow intermarriage with the tribe generally; each section of the tribe is strictly endogamous. Thus Chándor Chamárs do not intermarry with Jatiya Chamárs. A Báwariya may not marry any but a Báwariya of his own section of the tribe. Among the Banyas an Aggarwál can marry only an Aggarwál; a Mahesrí can marry only a Mahesrí; an Oswál only an Oswál. Similarly each section of the Bráhman caste is endogamous.

Among Musalmáns, the Ráíns are strictly endogamous. According to old custom, a Ráín of the Ghaggar is allowed to marry only a Ráín of the Ghaggar (of "the twelve villages") or one of the Ráíns of Bareli who are said to have migrated from the neighbourhood of the Ghaggar. It is only of late years that two or three Ráíns of the Ghaggar have married women of other clans (*ghair kuf kí*), for instance, Ráíns of the Satlaj, and this was not thought proper, and the offspring of such a marriage has not been held altogether pure, and has not inherited a full share of the father's land. There can be no doubt that such marriages are exceptions, and that this section of the tribe has until lately been strictly endogamous and wishes to remain so.

Joiyas take in marriage the daughters of the Joiya, Wattu, Kharal, Dhúdhi, and Bhatti tribes, and perhaps of the Khichi, Sangla and Jhedu tribes. They give their daughters in marriage to the Joiya, Bhatti, Saiyad, Bodla, and Chishtí tribes.

Bhattis take in marriage the daughters of the Bhatti, Joiya, Wattu, Mohal, Chauhán, Panwár tribes. They give their daughters in marriage to the Bhatti, Bodla, Chishtí, Saiyad, and Pathán tribes, and sometimes to the Joiyas.

Bhúrs are, as a rule, endogamous. The only other tribe whose daughters they take and to whom they give their daughters is the Parihár.

Panwárs take in marriage the daughters of the Panwár, Chauhán, Tunr, Wattu, Bhatti, Siyál, Kharal, Joiya, and indeed of almost any tribe except Kamíns. They give their daughters in marriage to the Panwár, Wattu, Bhatti, Chauhán, and Joiya tribes.

Dogars are endogamous and intermarry with no other tribe.

Ránghar Chauháns give their daughters to and take daughters from the Tunr, Chauhán, Panwár, and Játú tribes

Bháneke Chauháns take in marriage the daughters of the Hajrá, Jhorar, Khod, Jugrá, Mambar, Godára, Sohú tribes—practically of all Musalmán Jats. They give their daughters to the Bháneke and Wattu tribes.

Kalloke Tunrs take in marriage the daughters of the Khod, Jhorar, Sohú, Hajrá, and other Musalmán Jat tribes, and give their daughters to the Kalloke and Wattu tribes.

Gújars intermarry only with Gújars.

Jhorars intermarry with almost any Musalmán tribe except Kamíns (*beját*), such as Díndárnís or converted Chúhras.

Bodlas give their daughters in marriage to Bodlas only. They marry women of their own tribe, or of the following four tribes, which are all considered to be Rájput: Bhatti, Joiya, Wattu, Dhúdhi.

Chishtís give their daughters in marriage to Chishtís only. They marry women of their own tribe or of the Bhatti, Khokhar, Dhúdhi, Joiya, Wattu, Pathán, Mughal, Háns tribes.

Wattus give their daughters to Wattus and sometimes to the Bodla, Chishtí or Bhatti tribe, but there is a strong prejudice against giving daughters out of the clan. A Wattu may lawfully marry a Musalmán woman of any caste, and her offspring will inherit even if she be a Chúhrí or Mahtam.

These distinctions are not always very clear, and there were at attestation some disputes as to the tribes with which marriage is allowed by custom. The rarity of marriages outside the tribes mentioned shows that practically the restriction is very strong, though a Musalmán dares not declare unlawful a marriage allowed by the Muhammadan Law. The offspring, however, of a marriage with a member of any tribe with which it is not allowed by custom, especially with a woman of a low caste, or with a woman who has eloped, would be considered impure, and would not be sought in marriage by those of pure blood, or allowed to inherit. Some of the Musalmáns seem inclined to be more liberal and to allow the propriety of a marriage made with any but a very low caste woman, provided it is conducted openly and in good faith. The tribes claiming to be Rájput are more particular than those calling themselves Jat; and the custom of giving daughters in marriage only to particular tribes is

tenaciously adhered to as a point of honour, each tribe considering that the more exclusive it is in this matter the higher the position it is entitled to claim.

Question 4.—May a man be married at the same time to any two women who stand in such a degree of relation to each other as that, if one of them had been a male, they could not have married?

Answer 4.—A Musalmán may not, in his wife's lifetime, marry her sister; but he may marry his deceased wife's sister. (All Musalmáns.)

Note.—All Musalmáns are, in this matter, bound by the Muhammadan Law of Marriage.

Any Hindú may, during his marriage with one woman, marry her sister or any relation of hers of the same generation. He may not marry a relation of hers of a higher or lower generation. (All Hindús.)

Note.—Among all Hindú tribes it is not uncommon for a man to marry his wife's sister during the lifetime of his first wife, especially if she have borne him no son. Indeed, a man often marries two sisters at the same time, both going round the sacred fire together with him, with their clothes tied to his. Such a double marriage is generally due to one of the girls having some physical defect which makes it difficult to get her married separately, and she is thrown into the bargain with her sister. The general feeling is that a girl must be married at all events, and if she have any serious defect and cannot be otherwise disposed of, some one is bribed to take her. A man may not, even after his wife's death, marry her niece, whom he must regard as his own daughter.

Question 5.—May a man marry again a woman he has divorced?

Does it make any difference if she have been married to another and divorced by him, or separated from him by his death in the interval between her divorce from her first husband and his second marriage to her?

Is any distinction taken if the wife have not been three times irreversibly divorced?

Answer 5.—There is no instance of a man's having married again a woman he has divorced or expelled from his house. (All tribes.)

Note.—Among Musalmáns divorce is very rare. Among Hindús there is nothing to prevent a man from taking back a wife whom he has expelled from his house, but this could not be called re-marriage.

Question 6.—Are the degrees prohibited by consanguinity also prohibited by fosterage?

Are there any exceptions to the rule?

Answer 6.—A man may not marry his foster-sister or foster-cousin or any other near relation by fosterage. (All Hindús.)

Among Musalmáns there is no special custom of fosterage, but they would be bound by the Muhammadan Law in this matter. (All Musalmáns.)

Question 7.—How many wives are allowed?

Answer 7.—A Musalmán may have, alive at one time, four wives, not more. (All Musalmáns.)

There is no limit to the number of wives a Hindú may have alive at one time. (All Hindús.)

Note.—In almost all tribes it is uncommon to have more than one wife alive at one time unless where the first wife had borne no son, or where a man has married by *karáo* his brother or cousin's widow in addition to his first wife married by the regular ceremonies. The expense of a *byáh* generally puts a limit to the number of wives married by the regular form.

Question 8.—At what age may marriage take place?

Answer 8.—There is no restriction as to the age at which marriage may take place. (All tribes.)

Note.—Marriage usually takes place between the ages of 12 and 18, and few girls are allowed to remain unmarried above 20, for it is thought disgraceful (or likely to lead to disgrace) to have an unmarried grown-up daughter. The richer the families, the sooner the marriage takes place. Early marriages, at the age of 7 or 8, are common among Banyas and not infrequent among Játs. Among Hindús, girls are generally married before 16; among Musalmáns, grown-up unmarried girls are not uncommon.

Question 9.—Whose consent is necessary to the validity of marriage? Give the rule—

(1) if both parties are minors;
(2) if both parties are of full age.

Can the woman consent to her own marriage without the consent of her guardian?

Answer 9.—The consent of the same persons is necessary to the validity of marriage as is necessary to the validity of betrothal. (See Section II, 2.)

A woman cannot consent to her own marriage without the consent of her guardian, except when she marries her deceased husband's brother. (All tribes.)

Note.—Among Musalmáns generally, the consent of the parties, whether minor or of full age, is formally asked in the *nikáh* or marriage ceremony, and is necessary to the completion of the marriage.

Among all tribes which allow the remarriage of widows, it is usual for the widow to marry her deceased husband's brother or near relative, and in such a case her own consent is sufficient. But custom requires that, before marrying out of the family, she should obtain the consent of her former husband's relatives; and if she cohabits with a stranger without their consent, usually a tribal *panchâyat* will make him give her up or pay a price for her. But Act XV of 1856, section 7, enacts that in the case of a Hindú widow of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her remarriage lawful and valid; and if she is a minor whose marriage has not been consummated, she shall not remarry without the consent of her father or his relatives. Custom would say—her former husband's relatives.

Question 10.—Do you observe any of the eight forms required by strict Hindú law? If so, which forms; and with what, if any, modifications?

Describe in full the usual ceremonies; and specify any particular ceremony which is regarded as making the tie indissoluble.

Answer 10.—Among all Musalmáns the only binding ceremony which completes the marriage is the *nikáh* which is performed with all the formalities of the Muhammadan Law. There are many other elaborate ceremonies which go to make up the *bivánh* or *vyáh* or *byáh*, *i.e.*, the regular wedding; but the *nikáh* is the only indispensable binding ceremony. In the remarriage of widows also the *nikáh* is indispensable. (All Musalmáns.)

Among all Hindús the only forms of marriage known are the regular marriage (*byáh* or *shádi*) and the *karáo* (see answer 18.) The regular marriage must take place before the assembled brotherhood with the assistance of Bráhmans, the important and binding ceremony being the formal transfer of the girl (*kanyádán*) from her family to the boy's family, accompanied by the *phere* or turns round the sacred fire (*hom*). In this ceremony, when the relatives of both parties have gathered together, and the *hom* has been properly prepared, the clothes of the boy and girl are knotted together and they walk round the sacred fire four or seven times; while the Bráhmans representing the parties repeat

the marriage vows and perform other ceremonies. In the *byáh* there are numerous other elaborate forms which are imposed by custom, but the important ceremonies are the *phere* and *kanyádán*. (All Hindús.)

Of the Chúhras, those who live among Hindús and Sikhs have the ceremony of the *phere* round the *hom* in the presence of Bráhmans. Those who live among Musalmáns have the *nikáh* performed by a *faqír*. (Chúhras.)

Note.—The regular *byáh* among Hindús is the only form allowed among tribes which do not practise remarriage of widows. It seems to correspond with the Bráhma ceremony described by Manu. The *karáo* form is used in the remarriage of widows, and requires none of the elaborate ceremonies of the *byáh*. It seems sufficient that the parties should consent to cohabit with each other, and thus the *karáo* seems to correspond with the *Gándharva* form of marriage described by Manu. The other forms are not known. Neither among Hindús nor Musalmáns is any record of the marriage made at the time in writing.

Question 11.—Who are competent witnesses to a marriage contract between Musalmáns?

Are there any special requisites to the competency of such witnesses?

Answer 11.—For the *nikáh* ceremony two witnesses are required, who must be adult male Musalmáns. Usually relatives act as witnesses. (All Musalmáns.)

Question 12.—Will contracts entered into by a married woman, the subject of such contracts being other than her peculiar property, be binding on herself or her husband?

Is any distinction made if the contract may have been requisite to her obtaining the necessaries of life?

Answer 12.—A contract entered into by a married woman in the absence of her husband, if requisite for obtaining the necessaries of life or for paying the Government revenue, is binding on herself and her husband as regards his moveable property. There is no clear custom as to how far she can enter into a contract regarding her husband's immoveable property. (All Hindú tribes.)

The same, except that a married woman can in no case enter into a contract regarding her husband's immoveable property. (All Musalmán tribes.)

Note.—The Hindús also hold that a married woman could not, except in case of dire necessity, mortgage or sell her husband's land, and no instances of this having been

done were brought forward. When the husband is absent and the wife has to contract debt to supply herself and her children with necessaries, to pay the Government revenue, or to marry her children, she should apply to her husband's agnates for help; and if they cannot or will not aid her, she may enter into a contract which, as regards his moveable property, will be binding on her husband.

Divorce.

Question 13.—Upon what grounds may a wife be divorced?
Is change of religion a sufficient cause?
May a husband divorce his wife without assigning any cause?

Answer 13.—There is no regular custom of divorce, but a husband sometimes divorces or expels his wife. Adultery is the only sufficient ground for divorce or expulsion. (All tribes.)

Note.—Among all tribes, both Hindú and Musalmán, cases of divorce or expulsion of a wife are very rare, and divorce, even among Musalmáns, can hardly be said to be authorised by custom. Most Musalmáns, however, say they would be ruled by Muhammadan Law in this matter.

Question 14.—What are the formalities which must be observed to constitute (1) a revocable, (2) an irrevocable, divorce?
Do you distinguish between *tilak* and *khola?* If so, what is the distinction?

Answer 14.—There is no established custom of divorce. It takes place according to the Muhammadan Law. (All Musalmáns.)

Among Hindús no formalities are observed. The husband simply turns his wife out of the house.

Question 15.—Has a divorced or superseded wife any claims against her husband? If so, what for maintenance or for a specific share of his property? Does she lose such claims if she be divorced on the ground of adultery?

Answer 15.—A wife expelled for adultery has no claim for maintenance or for a share of her husband's property. A wife who has only been superseded by her husband's marrying another wife, remains in his house as his wife and is entitled to maintenance, but not to a separate share of the property. Sometimes, however, a suspereded wife is given a separate house and a separate plot of land for her support. (All tribes.)

Note.—Among Musalmáns there are very few instances of divorce, and no instances of any dower having been paid to a divorced wife.

Question 16.—Upon what grounds has a wife the right to claim release from the marriage tie?

Answer 16.—A wife can in no circumstances claim release from the marriage tie. (All tribes.)

DOWER.

Question 17.—Explain what is meant by dower (*kabín*).
State when it becomes payable, whether on consummation, or the death of the husband, or on divorce.
Is it payable in the case of divorce on the ground of adultery?

Answer 17.—There is no custom of dower among Hindús. Among Musalmáns dower is always mentioned in the marriage ceremony (*nikáh*), but is never paid. The husband gets the wife to free him from the obligation (*bakhsh dená*) before witnesses, sometimes by telling her he has given away its value in charity. Dower (*máhar* or *mahr*) has no existence in custom, and is only mentioned because it occurs in the marriage ceremony of the Muhammadan Law. A sum of Rs. 40 or Rs. 50 is generally mentioned. Some Musalmáns have an idea that if the husband does not get the wife to let him off the dower during her lifetime, the burden will hang over him until the last day, when she may claim it from him. If the husband dies without being freed from the obligation, often the widow formally renounces her right to it before witnesses.

KAREWA.

Question 18.—Explain the custom of *karáo, karewa,* or *chadar dálna.*
What is the distinction between such marriages and marriages of the ordinary kind?
In what castes or tribes does the custom obtain?

Answer 18.—*Karáwa* or *karewa* or *nátá* is the remarriage of a widow or deserted or expelled wife who has been previously married by the full ceremonial of a caste marriage (*byáh* or *shádi*). It is not preceded by any betrothal ceremony (*mangewá* or *sagái*), as that does not apply to a woman already married (*viváhí húí*), nor accompanied by the elaborate ceremonies of a *byáh* (*bivánh*), which apply to a virgin (*kwárí*) only. Among Musalmáns the only ceremony in a *karewa* is the *nikáh,* the bare marriage ceremony of the Muhammadan Law; among Hindús for a *karewa* hardly any

formalities are required, especially if it take place between a widow and her deceased husband's brother. Usually the man does go through some ceremony before the assembled relatives of tying a rupee in the corner (*pallá*) of a sheet (*chaddar* or *orhná*) and throwing it over the woman's head, and sometimes he has bangles put on her arms (*churí pahirái*) but often it is quite sufficient if the brotherhood, without any formal ceremony, are given to understand that they have taken each other (*karliyá*) as man and wife. Among the Bágrí Játs, Kumhárs, Khátis, Chamárs, Chúhras, Báwariyas, and Herís, it is common for the deceased husband's agnates to regularly sell the widow to a stranger of the tribe, and transfer her for a money price, or sometimes some member of the family gets another woman in exchange for the widow. In such cases the only ceremony is that of sale or barter, with as little formality as in selling a cow or camel. According to Chamárs and Chúhras, the value (*chukáwa* or *lága*) of a widow depends chiefly on her age: a widow of 20 sells for some Rs. 50, a widow of 35 for Rs. 20, and as for a woman of 50, "who would ask her price?"

Banyas and Roras and Bráhmans do not allow the remarriage of widows. The Bodlas, Chishtís, Joiyas, Bhattis, and Bhúrs do not approve of remarriage of widows, and it is not common among them, though cases have occurred. Suthár Khátís allow a widow to remarry, but not a brother of her deceased husband; she must marry out of the family. Among Kumhárs, Bágrí Chamárs, Báwariyas and Herís, a widow may not marry her husband's elder brother, but she may marry her husband's younger brother. Among Bágrí Játs, Sikh Jats, and most Musalmán Játs and Rájputs, a woman ordinarily marries her husband's younger brother (*dewar*), and it is thought better that she should do so; but if there be no younger brother, or if there be some reason against this arrangement, she may marry her husband's elder brother (*jeth*). Among Tarkháns, Lohárs, Panjábí Chamárs, Chúhras, Wattus, and Ráins there seems no distinction made; a widow may marry her husband's brother, whether elder or younger.

Among the Sikh Jats, a widow, if she remarries, generally marries her husband's brother, or if there be no brother, her husband's agnate cousin. It is not usual among Sikh Jats for the husband's agnates to sell the widow for a price to a stranger. Ordinarily, if she does not marry her husband's brother or agnate cousin, she remains a widow in her hus-

band's house, and a number of the Sikh Jats hold that a widow should not be allowed in any case to marry any but a near agnate of her deceased husband. But there are cases in which a Sikh widow, generally without the consent of her husband's agnates, has married a stranger by *karewa*, and her sons have succeeded to their father's estate. Many of the Jats present were anxious to have it recorded that if a man marry by *karewa* any woman except the widow of his brother or agnate cousin, the marriage should be considered void, and the offspring illegitimate and not entitled to inherit. But this contention is not supported by custom. Some maintain, on the other hand, that the son of any Jatní is entitled to inherit his father's property even if her former husband be still alive. Others again say that if a woman has left her husband's house or been expelled by him for infidelity, her son by another Jat should not succeed even to his own father.

Among the Bágrí Játs and most of the inferior Hindú tribes, a widow, if she wishes to remarry, ordinarily marries her husband's brother or agnate cousin. The husband's agnates cannot compel her to marry one of them, but they can prevent her from marrying a non-agnate without their consent, and it is common for them to sell her to strangers for a price. According to the Bágrí Játs, even if a woman whose husband is alive cohabits with another Ját and bears him a son, that son is considered the legitimate son of his father and entitled to inherit. Sometimes when a Ját becomes a *faqír* or becomes leprous or impotent, his wife marries again in his lifetime, and in such cases she is considered the legitimate wife of the second husband, even in the lifetime of the first.

Among the Ráins, although a widow oftener marries some agnate of her husband than a stranger, the husband's agnates have no prior claim. She can remain unmarried in her husband's house and in possession of his estate, or she may give up the estate and go to her father, or marry elsewhere with her father's consent and without requiring the consent of her deceased husband's agnates.

Among the Wattus and Musalmán Jats and Rájputs generally, a widow usually marries her husband's brother or agnate cousin or nephew, and she is not considered entitled to marry a stranger without the consent of her husband's agnates.

Among all tribes allowing re-marriage of widows, the sons of a *karewa* marriage are equal to the sons of a woman married by the regular form (*byáh*), and share equally with

them the father's inheritance. The wives, too, are equal in every respect, except that, with some Hindús, the regularly married wife *byáhi húi aurat*) takes a greater share in the funeral ceremonies of the husband *(kiryá karm*) than does the wife married by *kareiva*.

Among most tribes, restrictions on the remarriage of widows are more a matter of family pride than of religion or custom, and there is a general idea that the more particular a tribe or family is in forbidding the remarriage of widows, the higher the place it is entitled to take in the social scale. Some tribes among whom remarriage of widows is actually practised, deny the custom in order to enhance their dignity; among other tribes and families, prohibition of the remarriage of widows seems to be of recent date, but there are also signs of a more liberal spirit in the matter, and instances in which greater liberty is given to the widow in choosing a second husband for herself. It is ordinarily said by the Jats that they are Rájputs who have adopted the practice of the remarriage of widows. Perhaps the truth is the other way, and the Rájputs are Jats who have separated themselves off from the rest of the race by forbidding the remarriage of widows.

Presumption of Marriage.

Question 19.—Is marriage ever presumed from cohabitation, although the full ceremony may not have been performed? If so, amongst what castes or tribes?

Answer 19.—A marriage is not valid unless the ceremony of *nikáh* has been performed according to the Muhammadan Law. (All Musalmáns.)

Marriage is in certain cases presumed from cohabitation of a Játni with a Ját even if no ceremony had been performed. (Bágrí Ját.)

Marriage is not presumed from cohabitation. It is necessary that some ceremony should have taken place before the brotherhood. (Sikh Jat, Banya, Rora, Bráhman, and Hindú tribes generally.)

Note.—For a full explanation, see last answer.

Addendum to the General Code of Tribal Custom of the Sirsa District.

THE General Code of Tribal Custom of the Sirsa District was drawn up by Mr. Wilson in 1882 after a very careful and complete enquiry. It was considered unnecessary for me to make any further enquiry into the customs therein dealt with, and I was ordered to write only a short addendum noting on any striking cases which had come to my own notice during the course of settlement operations and also on all cases in which a decision had been arrived at on a disputed point by a competent Court after the Code was written.

No noteworthy cases involving a question of Customary Law have come before me during the last three years. Cases of disputed custom appear to be very rare in the Fazilka and Sirsa Tahsils. I appointed two intelligent clerks to look through all files decided by the Collector or District Judge or by any superior Court and to enter in a register all cases in which there had been a dispute as to custom. Only nine such cases were found in the files of the Fazilka Tahsil and only five in the case of the Sirsa Tahsil. I sent for the files of all these cases and I tabulate the results below :—

There is one decision by the Chief Court on the question of *karewa* ; the facts were as follows :— *M* was the wife of *A* who disappeared and of whom nothing further was heard. After *A*'s disappearance *M* lived with *C*, *A*'s brother, and had by him three sons. The question was whether these sons were legitimate. The Chief Court held that the fact that *C* and *M* had lived together as husband and wife and had been received as such by the *biradari* was sufficient to legalise their union ; held further that this was especially the case because the widow was the *bharjai* of her second husband. This decision supports the statement on page 106 that among Hindus hardly any formalities are required for a *karewa* especially if it takes place between a widow and her deceased husband's brother. It would also appear that among Jat Sikhs as among Bagri Jats marriage by the *karewa* form may be presumed by the mere fact of cohabitation (*cf.* answer to Question 19).

Tribal Code, Section III, Question 18.

Chief Court Case Narain Singh and others *versus* Chanda Singh and others.

Section V, Question 15, unchastity of widows.

The Chief Court has held in two cases that there are no instances to support the statement in the riwaj-i-'am that the unchastity of a widow deprives her of her life interest in her late husband's property. In the first of these cases the parties were Jats and the widow is said to have married again by the *karewa* form. The Chief Court refused to deprive the widow of her life interest. In the second case the parties were Muhammadan Rajputs and the widow was delivered of an illegitimate child more than two years after her late husband's death. The Chief Court again ruled that the mere fact of unchastity was not sufficient to deprive the widow of her right.

Chief Court cases Nos. 359, of 1886 and 898 of 1898.

In a third case, decided by the Collector of Hissar, *M. R.* was an occupancy tenant and married her husband's step-brother by the *karewa* form. The owners sued to obtain possession, but the Collector held that the suit should be dismissed on the ground that a widow does not after a *karewa* ceremony lose her life interest in occupancy land. This decision appears to be wrong. According to the Chief Court's decisions just referred to the *karewa* marriage would not have caused *M. R.* to lose her right as against her late husband's agnates, but according to the terms of Section 59 (1) (6) of the Tenancy Act a widow loses her right if she re-marries. Now the only form of marriage by which a widow can get married a second time is the *karewa* form. If it is held that a widow who re-marries by the *karewa* form does not lose her right to an occupancy holding as against owners, then the owners can never succeed to the occupancy holding of a widow who re-marries. This is directly opposed to the law contained in Section 59 (1) (6) of the Punjab Tenancy Act.

All these decisions are opposed to the statements contained in the riwaj-i-'am (see note to Answer 15, Section V).

Section VI, Question 10.

The Divisional Judge of Ferozepore has held that the adoption of a daughter's son by a sonless proprietor is allowed if it is consented to by the agnates of the adoptive father. This ruling seems to support the answer to Question 15 in Section VI (Gyana *versus* Mussammat Miran, No. 59 of 1891, Civil). The Collector of Ferozepore has held that the adoption of

a sister's son is not invalid, provided it is not objected to by collaterals within the fourth degree (Dhan Singh *versus* Fatta and others, Revenue Appeal No. 196 of 1891).

Question 13. The District Judge of Ferozepore has held that no special custom has been proved whereby an adopted son loses his right to his natural father's estate (Mohna and others *versus* Sohna, No. 141 Civil of 1888). This decision is contrary to the riwaj-i-'am and is of doubtful value.

C. M. KING,

Settlement Officer, Fazilka-Sirsa.

The 2nd April 1903.

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