

advanced by Rohde, among others, that the State regulated the murder suits on the basis of the old family blood-feud, and that its chief object was the satisfaction, not of the State, but of the invisible powers. These positions we shall now proceed to illustrate.

That the State process grew out of the blood-feud is first of all indicated by the fact that it was the nearest relatives of the murdered man, and only in special cases more distant kinsmen, on whom devolved both the right and the obligation to prosecute. It was a duty for whose neglect in the case of wilful murder a man might be himself arraigned by a fellow-citizen (G. F. Schömann, *Antiq. of Greece*, p. 471, Eng. tr.). And this naturally arose from the fact that the duty to prosecute was regarded as also a duty to the dead, and thus as a religious duty, the neglect of which brought pollution upon the State and involved the risk of dearths and other calamities. For we have in the next place to note that the thought of the murdered man's vengeful spirit, and of other ghostly powers who jealously watched over his interest, was a living force in Athens even in historical times, shaping the course of justice, and moving the ordinary man to superstitious fear. To take the latter point first, the thought of the dead spirit's claim was a force to which the orator knew how to appeal in capital trials. So the relatives are said by Antiphon *βοηθεῖν τῷ τεθνεῶτι*, 'to succour the dead' (*Or.* i. 31; *Tetr.* 1, β, 13), and sentence on the murderer is described by him as *τιμωρία τῷ ἀδικηθέντι*, 'vengeance to the wronged' (*Or.* v. 58, vi. 6). In one of his speeches, composed for a fictitious case, he makes his clients address the jury: *ἀντὶ τοῦ παθόντος ἐπισκήπτομεν ὑμῶν*, 'we implore you on behalf of the dead' (*Tetr.* 3, γ, 7). In the next place the sense of a religious duty to the dead is apparent in the several steps of the judicial procedure. It is the archon-basileus who presides at the trial for homicide, the magistrate who inherited the peculiarly religious duties of the kingship; again, at the outset of the process, both parties have to swear by the Erinyes and other under-world powers to the justice of their cause. And lastly, we may note the procedure enjoined by law in the case of one condemned to temporary exile for an act of unpremeditated homicide. When the period of his exile had elapsed, and when he had been formally reconciled to the relatives of the slain, he had still to undergo a ritual purification from the stain of bloodshed ere he could share in the worship either of the State or of the family, and he had to make expiatory offerings to the spirit of the dead.

It will be seen that the conceptions here regarded as underlying the blood-feud, which have been attributed to the earliest Greek age and which are clearly reflected in classic times, contrast sharply with the picture of the Homeric age which lies between. The problem presented by this contrast can scarcely be ignored in dealing with the blood-feud, but it is one on which we can here only touch. It can probably be best explained by the composite racial elements that went to the making of the Greek nation. It is, of course, to be supposed that the feebler conception of the spirit-world reflected in Homer's pages, and the more untroubled gladness in life, were an actual feature of the age in which he lived. But they were the characteristics of a conquering Achaean stock, and not of the earlier population. The latter, who had no great poets to express the spirit of their religion, still clung to their local cults, and thought of the dead as mysterious powers, able to bless or curse the living. Even Homer, as already seen, is not without trace of

this earlier belief. A similar hint may be found in Hesiod, whose 'daemons' are the souls of the men who lived in the earliest or golden age (*Works and Days*, 121). And Porphyry (*de Abstin.* 4. 22) records how Draco enjoined the Athenians to honour the dead heroes of their country according to the custom of their fathers. The old faith never died, and at last, owing especially to the teaching of the Delphic oracle, its gloomier views about the under world became, as we have seen, a dominant force in religion, and helped to shape judicial procedure.

There was, indeed, in Greek religion another and very different world from this, a realm of serene piety, radiant with images of the Olympian gods. But beneath it, in an opposition which paganism could not fully overcome, was a world of gloom and misgiving, haunted by the thought of evil, and of powers whose law was justice untempered with mercy. Of that world the study of the blood-feud, and of its reflexion in the thought and practice of the classic age, affords us impressive examples.

LITERATURE.—W. Robertson Smith, *Kinship and Marriage in early Arabia*<sup>2</sup>, 1903, pp. 25 ff., 55 f.; art. 'Goel' in *HDB* and *EBi*; A. H. Post, *Familienrecht*, 1890, pp. 113-136; K. F. Hermann, *Lehrbuch d. griech. Antiquitäten*<sup>6</sup>, 1889, vol. i. §§ 64, 65; G. F. Schömann, *Griech. Alterthümer*<sup>4</sup> (by J. H. Lipsius, 1897, p. 508 ff.); Grote, *Hist. of Greece*, cf. vols. i. ii. iv.; Meier-Schömann-Lipsius, *Der attische Process*, 1887, p. 376 ff.; J. H. Lipsius, *Das attische Recht u. Rechtsverfahren*, 1905, Introduction; G. Glotz, *La Solidarité de la famille dans le droit criminel en Grèce*, 1904; P. Wilutzky, *Vorgesch. d. Rechts. Prähist. Recht*, 1903, pt. iii. ch. vi. 'Blutrache, Anfänge des Strafrechts u. des Prozesses'; J. Kohler, *Zur Lehre von d. Blutrache*, 1885; S. Herrlich, *Die Verbrechen gegen d. Leben nach attisch. Rechte*, 1883; Thonissen, *Le Droit pénal de la république athénienne*, 1876; E. Rohde, *Psyche*<sup>2</sup>, 1898; Eichhoff, *Über die Blutrache bei d. Griechen*, 1873; K. O. Müller, *Aesch. Eum.* pp. 64 ff., 139 ff.; Jane E. Harrison, *Proleg. to the Study of Greek Religion*<sup>2</sup>, 1903; Greek literature, esp. Homer, the Tragedians, Plato (*Laws*), Aristotle (*Politics*), and the Attic orators.

I. F. BURNS.

BLOOD-FEUD (Hindu).—Indian legislation had early reached the stage in which the right of private war, and the obligations arising from the blood tie everywhere recognized among the Teutonic tribes, had been superseded by the view that repression of murder and violence was a function of the State. The peace-preserving power of the king had become predominant, and we have to go back to Vedic literature if we would meet with some slight traces of the *wergeld*, or composition, once paid as a compensation for manslaughter to the relatives of the victim. It appears that a hundred cows were considered in Vedic times the ordinary amount of the *wergeld* to be paid for killing a man. The somewhat obscure hints in the Vedic *Samhitās* may be supplemented by the more explicit statements contained in the *Dharma-sūtras* of Baudhāyana and Āpastamba, where the fines to be paid for manslaughter are declared to have the removal of hostility for their object. Cows and other cattle were, no doubt, the earliest kind of money in India, and the payment of a hundred cows for manslaughter corresponds to the bride-price, which likewise consists of a hundred cows. Gradually, as the priestly influence made itself more felt, the compensation to be paid to the family came to be converted into a money present to the Brāhmins. This is the standpoint of the more recent lawbooks of Manu, Yājñavalkya, and others. At the same time, the kings took cognizance of all crimes committed in their kingdoms. Punishment was personified as the protector of all creatures, formed of Brahman's glory (Manu, vii. 14), and that king only was said to attain to paradise in whose dominion there existed neither murderer nor thief nor other offender (*Viṣṇu*, v. 196). Nevertheless, the ancient custom of blood-revenge did not become entirely extinct, and various instances of it are recorded down to comparatively

recent times. Thus in Kolhapur, before it came under British superintendence, murderers were sometimes compelled to make compensation to the family of the victim. Land thus given in compensation was called *khunkat*. In Kāthiāwār, various forms of blood-revenge were known to occur even in the 19th cent.; e.g. the avenger abandoned the village and acted in a hostile manner against the whole community (*baharvatia*). In Rājputāna, Prince Jait Sing received 26 *bighās* of land as a compensation, called *moond-kati* (blood-money), for the murder of some of his Rājputs. A landed proprietor in Mewār, whose father had been murdered, was given five villages belonging to the murderer. The inhabitants of certain border Districts in Gujarāt, between whom and their neighbours in Rājputāna an unceasing feud raged, used to have from time to time peaceable meetings with the latter, when the number of persons killed, women kidnapped, and cattle lifted on both sides, was ascertained, and a compensation in money paid for the surplus by the other party.

LITERATURE.—Roth, 'Wergeld im Veda,' in *ZDMG* xli. 672-679; Bühler, 'Das Wergeld in Indien,' in *Festgruss an R. v. Roth*, Stuttgart, 1893; *Bombay Gazetteer*, viii. 325, 329, xxiv. 267; Jolly, *Recht und Sitte*, Strassburg, 1896, § 44; Sir R. West, 'The Criminal Law and Procedure of the Ancient Hindus,' in *Ind. Magazine*, Westminster, 1893. J. JOLLY.

**BLOOD-FEUD (Muslim).**—Among the Arabs, as among the other Semitic races, the blood-feud (*qawād*), retaliation (*qisās*), vengeance (*thār*), is a general institution. Attested by pre-Islamic documents, confirmed by the Qur'an (ii. 173 and iv. 94), and codified by the jurists, it is a living custom among the Bedawin, and is practised in its primitive form. We get this information from the observations collected in Syria by several authors, especially Burekhardt and Jaussen; and it is to them that we must go to study our subject. In the written Muslim law the blood-feud is only a chapter of criminal law.

A man is killed; he must be avenged. At first, it seems to be for religious reasons: a human being who has died without having accomplished, in peace or war, certain rites of passage, could never find peace in the grave; the dead man's blood 'cries,' in the form of an owl which disturbs the repose of his family, and which cannot be appeased except by another's blood. Then it seems also for economic reasons: the family and tribe of the dead man are weakened in comparison with the family and tribe of the murderer; the injured social group demands compensation.

Sometimes vengeance is immediate: a murder is committed in an encampment; it is known who the murderer is; the men rush on his tents, kill everybody they meet, slaughter the animals, and burn or break everything belonging to the murderer. But these immediate reprisals are often impossible, and then, it appears, some rites which are not very definitely stated take place. The nearest relative of the victim dips his shirt-sleeve (*reden*) in the spilt blood and hoists it up at the top of a lance. During a space of three days the avenger has no communication with anybody. The pre-Islamic heroes used to subject themselves to various tabus at this time: Imru' l Qais took an oath to drink no wine, to eat no food, neither to wash nor to anoint his head, and to have nothing to do with women, until the day when his vengeance would be complete. It seems very probable that this was not altogether a voluntary tabu, because Duraid ibn as-Sama acted in the very same way.

Vengeance is taken, as a rule, by the nearest relative of the victim; but all the male members of his family to the fifth generation have the right of vengeance on the murderer and his relatives to the fifth generation.

The murderer, however, obtains the protection of his tribe or of an influential *shaiikh*; and if the family of the victim, supported by their tribe, follow up their vengeance, they become involved in an everlasting war, made up of isolated murders and renewed vengeance. It is not often that a murderer is left alone at the mercy of his enemies. Sometimes, however, a *shaiikh* will refuse to protect a man whose repeated assassinations are an annoyance to the tribe, or who has committed a murder in dishonourable circumstances. In such cases, the *shaiikh* makes proclamation through the whole tribe that he 'shakes his mantle' (*infiras 'abatih*) against him. The outlaw may then be slain with impunity by any one, even by a member of his own tribe. Sometimes a Bedawi proclaims the *infiras 'abatih* on himself. He makes a tour through the whole tribe with a stick in his hand and a white flag flying from the top of it. Determined to avenge himself for a personal injury by a murder, he is trying in this way to take measures beforehand to restrict the consequences of his action to his own head.

As a rule, the murderer, being protected by his tribe, escapes the immediate vengeance of the family of his victim; but he remains none the less under a constant dread of it, which disturbs the life of his tribe as well as his own. After a few weeks, he sends a representative to the victim's family to make proposals. These are rejected, because the family are in honour bound to get the blood that is to satisfy the dead. Some months pass. The two tribes are tired of a situation that trammels all their social relations. An interview is arranged in the *shaiikh's* tent, at which the representative (*wakil*) of the murderer appears in supplication before the principal family-chiefs. On his knees, he avows three times that he has the victim 'at his house.' Then the victim's nearest relative declares himself ready to make peace, but only on condition of receiving an enormous ransom (*diyya*) of young girls, camels, mares, sheep, money, arms, etc. The *wakil* consents to everything, no matter how exaggerated and impossible of fulfilment the conditions enumerated by the avenger may be. Then the *shaiikh* intervenes, and, calling on the names of various intercessors, asks for the reduction of the different elements of the *diyya* in succession; the avenger consents to this more or less generously, and peace is concluded. Pardon (*'afu*) is, so to speak, exchanged for the *diyya*. In certain tribes the *diyya* always includes two young girls of the murderer's family or tribe; the avenger keeps them to himself, or gets them married at will. Lastly, peace is guaranteed by the nomination of two hostages (*kafil*) for each side, and a white flag is hoisted on a stick. Sometimes they proceed to a final ceremony of burying the blood. When the family of the murderer are unable to pay the *diyya*, they go into voluntary exile.

The amount of the *diyya* is not usually the object of discussion except between tribes who live in close relations of kinship, or, at least, neighbourhood; for others there is a fixed amount (*mudda*). In ancient Arabia, the *diyya* of a free man was a hundred camels, and that is the figure adopted by the *sunna*; the legal writings determine the lists of beasts to be chosen, in accordance with the ancient customs. For this *mudda*, which, in practice, can be applied only among nomads, has been substituted a sum of 1000 or 1200 drachmas, according to the country. Some people have preserved customary *muddas* which do not agree with the price fixed by the *sunna*: one allows fifty sheep and fifty *mejidi*; others, a thousand piastres along with the murderer's weapon and some sheep, two or three hundred *mejidi*, forty camels, etc.

The prescriptions of the Qur'an (ii. 173), the