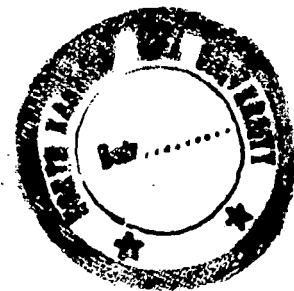


**DISPUTE RESOLUTION AMONGST THE GAROS  
OF GARO HILLS ( MEGHALAYA )**

**THESIS SUBMITTED IN FULFILMENT OF THE  
REQUIREMENT OF THE DEGREE OF  
DOCTOR OF PHILOSOPHY**



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## C E R T I F I C A T E

Certified that the subject matter of this thesis embodies the record of original investigation carried out by Miss Kumie R. Marak. The content of this thesis did not form a basis of the award of any previous degree to her, or to the best of my knowledge, anybody else, and that the thesis has not been submitted by her for any research degree in any other university.

The habit and character of Miss Kumie R. Marak is fit and proper for the award of degree of Ph.D.

*Milton S. Sangma* 22/11/91  
(Milton S. Sangma)

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CHAPTER 1: INTRODUCTION

(1) The scope of study

(11) Main aspects under study

(111) Methodology and collection of data.

The Anthropological literature on village ethnographies are many in India, but the studies on legal anthropology has not been undertaken by many. Legal Anthropology is one of the branches of Anthropology which is studied with many other disciplines. Ethnographies and other village monographs contain references to dispute processing institutions and particular cases or institutions described in them. Many intellectuals, philosophers and officials have incorporated their own experiences and knowledge. The different names by which social control is referred to are customary law, customary practices, law and order, legal sanction, moral code, etiquette, social conflict and dispute resolution are dealt within different areas by different people. However, man as a social animal has to acquire means to combat in respect to power, authority, land, succession, marriage and religious belief.

Some of the mentionable works in this regard is that of Westermack (1906) and Hobhouses (1906). These were the first books written by social scientists on morals and their development in human societies. However, the idea of relativity of morals in different societies was first promulgated by David Hume and further probed, analysed and elaborated upon by Herbert Spencer and Westermack. Their work found supporters among British and American anthropologists. Raymond Firth, one of the leading British anthropologists, defined morality as

" ... that system of rules and standards which gives significance to the activity of individuals in relation to one another in society, and which gives meaning and value to conduct" (1951: 213-214). In the United States the trend to synthesize anthropology and philosophy had met with a larger acclaim. May Edel and Abraham Edel, the former an anthropologist and the latter a philosopher in their book entitled "Anthropology and Ethics" (1959) demonstrated the reciprocity and cooperation which can exist between these two disciplines. The main crux of their study on several groups was that ethical and moral concepts do not fall within the domain of supracultural sphere but they have their cultural roots and social functions. Another significant contribution towards understanding law anthropologically with the help of philosophy was by Northrop (1953). He begins with the statement "Law like personal ethics, is concerned with norms. Since norms express the ethos of a culture, different theories of legal norms take one to the heart of the problem of cultural values" (p.668). He distinguished between 'positive law' and the 'living law', the former including the given constitution, codes and institutions while the latter encompassing the underlying inner order of the behaviour of people in society. He further emphasizes that, "since the inner order of society has content and varies often from one society to another, this theory of cultural values has the merit of giving to the judge who is operating his positive legal institutions a norm possessing content" (ibid:p.673). Moreover, he reinstates the fact that ethical character of a

society does not survive necessarily in a hothouse in isolation from rest of the society and culture. Thus both the 'positive' and 'living law' are in close correspondence to each other.

Clyde Kluckhohn (1949) in his study of Navaho Indian also reached to similar conclusion by deriving the inner order of the society from the philosophy used by the people. John Ladd, the American philosopher in his study of Navaho Indians (1957) utilized the general theory of descriptive ethics to detailed analysis of moral ideas arriving at a conclusion that, "morality is not the whole life, that violations are normal, and that the chief function of moral principles is to advise us how to act rather than to punish us afterwards" (ibid:333).

Working on the same line Haimendroff (1967) in his book "Morals and Merits" has conducted a cross cultural study amongst the South Asian countries, and has demonstrated that "diversity of moral ideas as well as of the controls different societies employ in ensuring the maintenance of the traditional moral order" (ibid:13). He tried to construe law through the moral value and ethical code of the primitive societies. Though this approach has had very limited usage amongst the anthropologists yet, this was the method which did not have the bias suffered by the Colonial researchers. The chief dilemma with them was the differentiation and similarity between law and custom. These social scientists were mostly influenced by the Analytical School of Austin who felt that law considered as the "..... command of the political state prescribing a certain line of conduct in all cases of a similar character enforceable by

specific sanctions in the event of disobedience has tended to slight customary law and scarcely to admit its existence" (Lobingier:1959:662). These were mainly propounded by jurists who tried to understand and generalise the nature of law. The conclusion apparently was that law was the prerogative of 'higher' cultures and civilizations since law can be enforced through courts and officials for settling disputes and punishing the culprit. Hence the entire system of social control amongst the preliterate society was kept at the lowest rung of the evolutionary ladder of law as conceived by the jurists.

Sir Henry Maine, during the late eighteenth century, in his monumental work on ancient law postulates that with the introduction of writing, the unwritten law recognized as customary law ceased to be so, instead getting elevated to the status of law. Another debatable contention of his was the interrelation between primitive law and religion. Further, time and again he has been misquoted and misinterpreted by later writers on law. In this regard Hoebel (1954) and Redfield (1950) think alike. Maine never intended to make religion as the source of law but mainly tried to demonstrate 'intertwining of law and religion in primitive societies." On the other hand, Diamond (1971) and Seagle (1941) attempt not to begin with 'the stages of development of law' where moral and religious progress forms the central theme. Diamond (1971) in his book entitled "Primitive law past and present" which is chiefly an account of historical jurisprudence revolves the entire description around four grades of economic system, his main

stress being that a new economic system brings changes in law.

He recognized four economic grades:

- (i) Food gatherers grade
- (ii) First agricultural grade
- (iii) Second agricultural grade
- (iv) Third agricultural grade

These grades have been correlated with early codes, central codes, late codes and parallel codes.

During the period of late eighteenth century the scholars of jurisprudence were more interested in systematising the available facts in the evolutionary scheme. In doing so they were mostly collecting the ideological rules of the societies through the accounts of missionaries and Colonials. It is said that the Germans went to the extent of distributing questionnaire to the missionaries and Colonials to fill in the gaps. However, the lack of field insight miserably failed to bring out the actual normative interplay between individuals, clash of individual interests, conflict and intervention of forces which had the power to control the given situation. Thus the accounts recorded lacked the vivacity. An improvement over the Post Kohler German School were the Dutch monographs on ethnological jurisprudence initiated by Van Vollenhoven. Though they mostly recorded the ideological pattern, yet, they were more life-like since the ethnologists and the law experts based their writings on field studies. The account of Indonesian 'adat' law (Haar: 1948) is a classic example of this school.

On the other hand, scholars like Hartland went to the extreme of defining primitive law as the totality of its customs. Thus the trend set wherein law and custom were treated as one. Clark, Wissler while writing the introduction to the work by R.S.Lynd and H.M.Lynd (1929) on the American community of Middletown proclaimed that this was the first study utilising social anthropological methods.

The trend setter in anthropology Sir Bronislaw Malinowski in 1922 published his book entitled "Argonauts of The Western Pacific" followed by the "Crimes and Customs in Savage Society". His approach to the study of primitive law was far removed from the earlier ideological trend. It was entirely descriptive, i.e., dealing with the actual practices the responses of the individual and thus the behaviour thereof to the various sanctions and responses prevalent in the society. Thus for the first time human beings were viewed as emotional and rational beings and their responses recorded and analysed. The same approach has been followed by Barton in his study of Ifugao law and Rattray's work on Ashanti law and constitution. During 1930 W.L.Warner writing on "Murngin Warfare" stated, "law is inherently purposive. It deserves more purposive attention; for on its immediate growth hangs the fate of civilization. The science of comparative legal dynamics is called upon to add its catalytic effect to the crystallizing metamorphosis from Primitive law to modern on the plane of world society" (p.333). A major achievement in the study of primitive law was made in 1941 by the publication of "Cheyenne Way" by Llewellyn and

Hoebel. It marks the beginning of 'study of Anthropology of law'.

E. Adamson Hoebel in 1954 published his work on comparative legal dynamics entitled "The Law of Primitive Man". Within this work he minutely delves into the realms of social control of six major tribes the Eskimo, the Ifugo, the Comanche, the Kiowa, the Cheyenne and the Ashanti. In his own words "an anthropological approach to law is flatly behaviouristic and empirical in that we understand all human law to reside in human behaviour and to be discernible through objective and accurate observation of what men do in relation to each other and the natural forces that impinge upon them" (1945:5). After having described the various incidents in an Eskimo life Hoebel commented that "in these ways, Eskimo society without government, courts, constables or written law maintains its social equilibrium, channelling human behaviour, buttressing the control dikes along the channels with primitive legal mechanisms or their equivalents. In these ways a social system is shaped in accordance with the social principles and values laid down in the basic postulates held held by the members of the Eskimo society" (Ibid:99). Thereof he puts forth the postulate that spirit beings or all animals by virtue of possessing souls have emotional intelligence similar to that of man the deduction from it being that man is subordinate to the wills of animal souls and spirit. While discussing the Ifugao he demonstrates that how family and kinship form the basic matrix to the system of social control. In Comanche he finds individualism to be very strong and postulates that individual is supreme in all beings. Thus he brings forth the

concept of magic, taboo and sorcery as found amongst the Eskimo and the Ifugao to be mainly aiding the society in its social control. Reviewing the Eskimo society he comments, "Religion controls function in place of law for the most part in the Eskimo system, but law comes to the support of religion as a last resort when religious sanctions have failed to work and tabus are persistently ignored" (ibid: p.261).

Citing the case of the Ifugao Hoebel states that "Religion and the use of magic loom large in the lives of the Ifugao..... Relations with the ancestors are of much concern to them. But tabu violations are entirely individual and family affairs to be expiated by extensive sacrifices and offerings to the spirits concerned" (1954:261). However, while analysing the Comanche he admits that though supernatural elements aid and support the law at weak points these do not entail any moral injunction or binding. He, however, admits that in the case of the Trobriand law the relation of law and supernatural is much more complex. While analysing and interpreting the Ashanti case he writes" ..... The Ashanti theory of the relation of law to the supernatural world is explicitly a natural law theory, and hence every legal prescription and action must nominally, at least, be squared with the ethics and requirements of the religious belief" (ibid:264). It is here that Hoebel just fleetingly touches upon the relationship of law to ethics and moral of the people. However, in the succeeding pages he tries to emphasize the point that whereas religion basically concerns itself with the human and superhuman

relationship, law deals mainly with the man to man relationship. He further tries to draw a line between crime and sin. In this context it is imperative that the norms which religion lays out for man to deal with the super human does not necessarily remain restricted to the religious sphere but it pervades his entire behaviour system which includes his responses and reactions with other human beings. Hence the basic tenet of religious ethics and moral of a society directly influences the behaviour of the people and framing of social sanctions within the society. Thus while viewing a society the religious values become covert mainly due to the formalism with which the society tries to drape its social sanctions. Which makes the laws, rules and sanctions appear overtly secular.

With the rise in complexity of the social system the entire domain of social control takes up a clear cut shape in terms of set legal rules and personnel who are empowered to use them. In primitive societies this pigeonholing of law and religion is less evident. The sorcery, magic or a rite which an individual or group resorts to for a means of settling a conflict through propitiation of spirit by animal sacrifice or other material offerings takes the form of 'wasta' as mentioned by Laura Nader (1965:395). In her study of Shia Moslem village of Libaya in Lebanon. The 'wasta' are 'remedy arrangements' in a litigation, mostly done by Lebanese politicians who try to motivate and influence the legal authorities to settle the case in the favour of their client, who is from his constituency. Nevertheless, Hoebel's (1954) attempt at describing the range

of variation in legal procedure and relating its complexity at different levels of subsistence gives a researcher ample coverage in understanding a community's legal aspect even if it has been picked from any part of the world.

The coming of 1960s heralded a new era for the study of anthropology of law. The trend and use of the comparative studies were being questioned. According to Fred Eggan (1965) "the comparative method is still a useful procedure in cultural anthropology despite the considerable variation in the conceptions held by the different anthropologists as to its nature..... the comparative method is not a 'method' in the broad sense, but a technique for establishing similarities and differences" (p.366). Taking Hoebel (1954) and Gluckmann's work (1955 and 1967b) on Barotse as land mark the question was where to move next in anthropology of law? The queries of Sally Falk Moore (1969) adequately expresses the thoughts of a social scientist (page 339) in investigating legal phenomenon: on what basis is the anthropologist to decide what he is looking for and what to look at? Is he comparing legal concepts or behaviour? Are these different from each other or are they facets of the same entity? Is he comparing whole legal systems? Cases: Rules? System of rules "dealing" with particular substantive matters, land, inheritance, family, property transfer and the like? Procedure? Is he interested in dispute settlement exclusively or in systems of social control in general? Added to this dilemma was the 'perils of Anglo ethnocentrism'. The dispute between Paul Bohannan and Gluckmann regarding suitable

language for legal description was given much ado during the entire seminar held under the Wenner Gren Foundation during 1966 with the main theme to find "the position of jurisprudence in social science and the study of dispute settlement in terms of processes relating to society and individual". The central theme of discussion remained around the Bohannan-Gluckman controversy between various social scientists, jurists and anthropologists. Bohannan's chief argument was that the English legal terms are bound to the English law with such firm rigidity that they cannot be used to adequately describe another legal system. Hohannan further emphasized upon the issue of including the folk analytical system in the general rubric of comparative analytical system. Another important feature which emerged from this seminar was the new trend of studying anthropology of law through conflict resolution or dispute settlement, which was a certain advancement from the simplistic listing of law. In this approach the unit of study is the concerned case. The three main spheres in it is the pre-history of the dispute, the dispute itself and its social consequences. P.H.Gulliver was a pioneer in this kind of studies.

One rarely comes across works in India totally devoted to anthropology of law. However, there is no dearth of short papers or articles in Indian context. This aspect becomes more conspicuous since in contrast we have excellent monographic studies devoted exclusively to the legal aspect of a tribe or community, a few of which are American Indians (Hoebel, 1954 and Barton, 1919), African tribes (Gluckmann:1955, 1966, Evans

Pritchard:1940), Mexican tribes (Collier:1973) and communities of New Guinea (Koch, 1974: Popisil, 1958 and Berndt, 1962). Whereas in the Indian context we find that the account of customs and laws of Hindu caste of the Deccan Provinces enumerated as early as 1868 by Arthur Steele. This was followed by Julius Jolly's account (1928) on Hindu law and custom. These early works along with the translation and analysis of Manav Dharam Shastra (Buhler:1964) formed the beginning of the study of law in India. The later trend of the research was far removed from the earlier trend. These studies can be categorised under legal systems operating within the caste system. Such studies include the works of Srinivas (1954), Bose (1960), Biswas (1962), Derrett (1963) Gnanambal (1973), and Misra (1977). Further the various village studies carried out in India explicitly and expertly handled the aspect of conflict resolution. Mention may be made of the studies of Srinivas (1952 and 1962), Bailey (1963 and 1965), Carter (1974), Davis (1980) and Ishwaran (1964). The acceptance of Village Panchayat system by the Government of India was a definite step towards recognition of indigenous customary practices. A few of the studies which emphasize upon the functioning of Panchayat are Upendra Baxi and March Galanter (1979) Girtler (1976) and Kushawa (1977). The nomads had held the interest of researchers working on law and society in this regards the work of Vestschera et al.(1978) and Misra (1978a) is worth mentioning. Lastly the general trend of Indian jurisprudence and the changes noted in the Indian social system by anthropologists has been well brought out in the studies of Cohn (1959, 1961 and 1965), Baxi (1975) and Kidder(1978).

Further, recently published work of Archer (1984) on Santal courts is an useful contribution in the studies of tribal customary law. Singh (1984) in his introduction to Archer's work observed that though the end product of Archer's efforts were compiled in three volumed reports on state of the Santal law, yet, the study did not cover the tribal perception of law. Besides it lacked the anthropological insight and suffered from major lacunae in understanding of tribal customs and tribal law in Santal milieu. The classic account of Elwin (1950) of Maria Murder and Suicide deals basically with the homicidal aspect of the tribe. To evaluate the aboriginal crime he utilizes his anthropological knowledge and illustrates with cases as how the individual was dealt with under the Indian penal code. The foreward of his book was written by Sir W.V. Grigson a British Colonial administrator from the area of Bastar. In the appendix Elwin has given 100 homicidal cases recorded by him. Another study is that of Bhil tribe (Varma, 1978) of Rajasthan. During the long years of author's administrative career when he was posted in Rajasthan and in due course of his stay he had recorded the details of various legal cases brought to the court. The detailed enumeration of these individual cases brings out the tribal tendencies, motivation behind a case and the contrasting standards of tribal custom and modern jurisprudence. The most recent being the work of Roy and Rizvi (1990) dealing with customary tribes of North East India.

Burling, R. (1963) in his book on a village Rengsangre described ethnography of the Garo in lucid details. His main aim of the study was kinship operation and its net work in the special form of cross-cousin marriage within the matrilineal society. But he confessed that instead of proving any hypothesis he dealt the descriptive study of Garos of one village. In one of his chapter he attempted to describe the procedure of settlement of disputes adopted by the villagers. Most of the case studies were confined to disputes over land rights. Further, he gave vivid description of the ordeals the accused had to undergo in proving his innocence. Further more, no indepth analysis of conflict resolution was attempted. The author without having any particular observation took the help of prevailing traditional norms in describing the mechanism of social control.

Milton Sangma (1979) in his book on "History and Culture of the Garos" not only gave a comprehensive account directed to delienate the oral, proto and contemporary history of the Garo but also presented glimpses of social change within the society. He gave an interesting account of the political systems along with administration of justice. His description of mechanism of social control provides insight into the study of conflict and confrontation. His account of customary laws is not only based upon the published papers but also on the rigorous field work he had conducted during data collection.

Julius L.R. Marak (1985) published a book on "Customary Laws and Practices". According to the author the main source of the customary laws is Garo religion. With the change in



religion the author prophesized that the change in customary laws is inevitable. His comprehensive and critical analysis of customary laws is based upon first hand information and data collected from secondary sources. His description of social offences, crimes, and laws pertaining to marriage and inheritance brings out the intricacies involved in dispensation of justice. But the lacunae in understanding the Garo mind in resolving disputes remained unattended.

Chie Nakane the Japanese scholar in 1967 made a comparative study of the two matrilineal societies Garo and Khasi. In her study she dealt in depth the Garo social organisation and interpreted and analysed the principles behind Garo cousin marriages. Further, she brought forth the authority and power vested with noknaship and its importance in the village community. Finally highlighting the reasons and factors responsible for the stability and sustenance of the domestic family amongst the Garo. During 1982 the India Law Institute published a book on Customary law and Justice in the tribal areas of Meghalaya prepared by Kusum and Bakshi gives the detailed history of Meghalaya, the constitution of tribal areas and judicial system in the three districts of Meghalaya Khasi Jaintia and Garo Hills. And it makes a comparative study of the customary laws of those three tribes, also citing various cases which had been brought to the court for judgement. Finally it analysis the effect of modernisation on tribal customary laws and the changing custom and legislative reform. These specific books have been immensely helpful during the formulating of this research proposal.

Every society irrespective of its culture or technological development is marked by frequent occurrence of dispute, conflict and aggression amongst its members. Though the members of a community are expected to behave in a particular set pattern that is..... "the behaviour of the individual members of any society (or of subgroups within a society) reveal considerable similarity in response to specific stimuli. These frequently recurring patterns we call norms or ways" (Hoebel, 1954, p.14). Conflict arises amongst human beings over land, women, wealth and status and is to some extent a vestigial left over from his animal ancestry. However, human society to meet with this challenge of social control had institutionalised various means and norms. "..... Law consists of a specially demarked set of social norms that are maintained through the application of 'legal' sanctions. The entire system of sanctioning norms is what constitutes a system of social control. Law as a process is an aspect of the total system of social control maintained by a society" (Salmond, J.W. 1924, p.132).

Dispute resolution in a society takes place within the framework of its culture. Every culture has its deeprooted ideas which play a crucial role in integrating different aspects of culture. By dispute, we understand that which arises out of disagreement between persons where in the alleged rights of one party are claimed to be infringed, interfered with or derived by the other party (Gulliver, P.H. 1969, p.14). In all societies men quarrel over the actual or assumed breach of norms, it is useful to distinguish between different types of quarrels; the

societies must settle the quarrels in some form or postpone their resolution for sometime, to maintain some kind of order within their framework. Usually, the quarrels are taken to the public arena for discussion, negotiation or arbitration but may not necessarily go through specific structural arrangements such as headmen, village courts, courts of law, etc. Every dispute involves: (a) the alleged breach of certain rules of norms; (b) the process of negotiation and adjudication; and (c) the mode of redress.

Once a disagreement or a quarrel is activated, some sort of positive result is reached as the action proceeds and eventually ends in the settlement. The consequences of a dispute settlement is considered important by negotiation between the disputants each assisted by socially relevant supporters, representatives and spokesmen.

Another mode of settlement is by adjudication where a binding decision is given by a third party with a decree of authority. Formal institutions settle the disputes which are headed by headmen and other elders who process the cases. These institutions have the right to adjudicate which are based on the principle of sacred traditional laws and are still relevant in the social control.

Though the adjudicating institutions may be formal yet, in the societies that are guided by oral traditions, there is much more than formal law that guide the adjudication. The past history of the individuals in the fray, clan and kinship alliances, and the host of other consideration may influence the process

of adjudication. In other words, a conflict may not arise on account of the different interpretation of a norm but on account of conflicting norm and emerging contradiction in a society. No society operates in vacuum, the interaction with other societies itself is good enough to raise issues which do not have straight matter of fact resolutions. The societies consist of individuals who have conflicting loyalties, obligations and responsibilities which may give rise to disputes. The individuals also like to manipulate things to promote their interests. Perusal of these issues give a dynamic picture of the society.

In the present study, the prime concern in the general field is the study of processes and in particular the processes of dispute resolution among the Garos. The fundamental unit of study is the case, empirical dispute and its mode of treatment. The position of jurisprudence in social service and the study of dispute settlement in terms of processes are related to society and the individual.

The study attempts to bring forth the prevailing situation as regards social control among the Garo. The popularity of a particular mode of jurisprudence would be assessed through the number of case materials it has dealt with. In this regard various other social factors like political authority, and power, economic factor and education play an important role to determine the mode of jurisprudence accepted by the people. The objective of the study is spelt out as follows-

1. To find out the pattern of the disputes and how they originate?
2. What are the conflicting norms in the society ?
3. What are the loyalties, obligations and responsibilities on the part of the members of the society ?
4. To study the mechanism how the disputes were used to be resolved in the past as well as how they are done in the present at the level of family, clan and village ?
5. To examine the irregularities (if any) in case of delivering judgements or penalties on more or less similar cases.
6. To determine the differences between the traditional laws and the modern jurisprudence.
7. To study how the Garo Customary laws survive from outside influence and to find out how the changes, if any, have influenced the traditional system.

(a) The Scope of Study:

Garos are the tribes residing in the Garo Hills district in the state of Meghalaya. The district used to be administered as a 'partially excluded area' by the Deputy Commissioner under the executive orders of the British Government during the British rule. The tribal ways of life, community ownership and use of land and the administration of the society according to the traditional laws and customs were least interfered with overtly under the British Administration.

Before the advent of the British Administration, Garo villages were an autonomous political unit. The Nokma and the elders of the village would meet, discuss and gave their decisions

according to the customary laws and practices. The judgements passed by the nokma and other village elders were 'respected' and accepted by the people. Their decisions were final and binding and there was no question of appeal to the higher courts as there was none. Hence, custom was the law of the land which was not enforced by any outside authority but by the society itself. However, the Garos followed the same social custom and tradition through out the district. Oaths and ordeals had played an important role in finding out the culprits in those days. If the culprit was found, he had to pay compensation or 'dai' as demanded by the council of the elders and the nokma.

The British Administration was established in Tura as the office of the Deputy Commissioner which was till the Independence of India officiated by the Britishers only. Regulation X of 1822 was passed by the British Government which established a special judicial system for the Garos. According to this Regulation, the administration of justice was vested in the Civil Commissioner appointed by the Governor-General-in-Council. The Administration appointed laskars and sardars to help the officials in civil and criminal cases.

The British Government passed the Act XXII of 1869 as the extension of the British judicial system in the Garo Hills. The laskars and sardars were the local officials and their proceedings were conducted orally in the village councils. The Assistant Commissioner tried all criminal cases beyond the competence of the village authorities and those cases which were punishable by death or a heavier punishment than seven years imprisonment. The

proceedings of these trials were recorded by officials in English.

The rules for the administration of civil and criminal justice in the Garo Hills were revised again by the passing of the Scheduled Districts Act XIV of 1874.

According to this Act, the administration of civil and criminal justice were conducted by the Deputy Commissioner and the Assistant Commissioner, the laskars and the Nokmas till India attained independence.

Even after the Independence, the old pattern of district administration, as was prevalent during the British Period, is still being maintained under the overall control of the Deputy Commissioner. Under the "Rules for the Administration of Justice and Police in the Garo Hills district 1937", the administration of the district is vested in him and his assistants called Extra-Assistant Commissioner who acts as judicial Officers of the district.

In addition to this, the Garo Hills Autonomous District Council passed "The Garo Hills Autonomous District Administration of Justice Rules" in 1953. According to these rules, the three courts are constituted by the District Council for the trial of suits and cases between the parties all of whom belong to the Scheduled Tribes. The courts are:- (1) The Village Court, (2) The Subordinate District Council Court and (3) The District Council Court. Under these rules more emphasis is given in administering justice by the Garos themselves in accordance

with their customary laws and usages. The Assam High Court by the Presidential Order of 1954, has got the jurisdiction over the District Council courts in the tribal area. It may be mentioned that the Garo Hills District Council has enacted the Garo Hills (Social Customs and Usages) Validating Act, 1958. The Act does not deal with the structure of courts, but still it is of some interest in connection with the law to be recognised or applied by the courts, since in effect, it confers the status of law on social customs and practices that are universally prevalent amongst the Garo Hills people.

In whatever way a dispute may arise, it has its source, an actual or assumed breach of norm. In a simple homogeneous society, there is a set of legal norms, or customary laws to which the individual is subject to.

The introduction of modern legal system impinges on these legal values with a considerable decline in the powers of the nokmas and mahari. Practise like head hunting have been banned and blood feuds are less as all the Indians are subject to the same Penal Code. The criminal offences like murder cannot be dealt with according to the tribal customs. These changes can be studied only by using case materials and judgements of the various courts.

The economic factor in the society is based upon the land tenure system called a'king which is based on the communal ownership of the land. The entire a'king land belongs to the clan. Nokma who is the village headman and also the husband of the nokma

(the heiress), allots specific area of the land to respective families for cultivation. Garos are basically agriculturists who practise shifting cultivation or jhum in the hills and wet cultivation in the plains. In the hills, two-year agricultural cycle begins when the portion of land that has been lying fallow for the longest period is apportioned to a household. After each cycle of cultivation the land reverts back as a'king land under the control of nokma. On the other hand the plots under wet cultivation are permanently owned and cultivated every year mostly paddy in each crop. Garos mostly cultivate rice, millet, maize, yams of all kinds, vegetables and cotton, ginger, chillies, etc.

The social control of the villages rests in the hands of the clan nokma and the laskar of the respective villages. Their services are sought during the disputes related with social and criminal offences within their a'king land. With the establishment of village court, the aggrieved party may take up their family or clan disputes to village courts and can appeal to the District Council Court.

(b) Main aspects under study:

"Dissatisfaction with the administration of justice is old as the law" (Pound Roscoe, '29, p.395)- states "the machinery whereby rights are secured practically defeats rights by making it impractical to assert them when they are infringed. While in theory we have a perfect equality, in result, unless one can afford expensive and time consuming litigation, he must constantly forego undoubted rights, the actual conduct of litigation affords no practical remedy".

According to J.P.Frank (1949) personal search for justice through the court system is delayed by a maze of papers, procedures and professionals. The adversary system, which was designed to uncover truth through the process of a hearing may tend to escalate and accentuate the conflict matter than encourage its resolution. Disputants become polarised and relinquish their power and control to the lawyers and judges who will not have to live with the results. In the end, the emotional and monetary costs of the dispute processing can become its own source of conflict.

Village courts emphasize informal settlement in familiar surroundings, while the mechanism vary from place to place, the theory of village settlement can be characterized by these concepts; maintenance of power, preservation of relationships and prevention of conflict. This court seeks a strong-self reliant community that assumes responsibility for taking care of its own members. While providing a convenient, inexpensive and responsive dispute settlement forum, it allows for the expression of the individual community's values. The procedures of the court focuses a resolution of the dispute rather than fault.

The social institutions of chra, mahari and nokma settle many disputes in the clan. However, it is not found that the records are available in the clan or in the village. Therefore the disputes in the clan is always settled orally by the clan elders. When a dispute is brought to the notice of the laskar and sardar, the case is settled in a meeting in presence of nokma and the villagers amicably settle the dispute or else

demand compensation or dai if the guilty is found. The Garo elders control their disputing relatives by beating and scolding them in the meeting. These methods are adopted to arrive at an amicable solution and restore peace in the community. The verdicts are oral in such instances, hence, study of verdicts is out of question. Recently, the Secretary of Village Councils has stated recording the proceedings of their meetings and settlement of disputes in the Village Courts.

Garo society like any other is undergoing changes, as a result of which the nature of disputes are also changing. There are many factors that are responsible for the changes such as modern education, access to the outside world, economic development, social contact with outsiders and social control becoming less effective, with increase or dependency on modern legal jurisprudence.

After the British Government established itself in the Garo country, all the murders and crimes were brought to court by the officials of the administration of the district. The attitude and conduct of the Garos had become subdued since the people became more amenable to the Colonial Rule and the officials felt that time would not be far distant when Garo raids would become a history. The settlement of blood feuds and old cases were been steadily processed and many long standing quarrels were been amicably settled, and the prized skulls attained after head hunting were publicly burnt. There were cases of life imprisonment and the convicts were sent out to the 'Kalapani' or Andamans Islands.

With the introduction of formal education along with the teachings of Christianity, indirectly exposed the people to new ideas. With the result that traditional pattern of religion and faith and reliability of the ordeals were questioned. This gave rise to difficulty in dispute settlements. Nowadays, when evidence is insufficient the cases are dismissed.

Traditionally social offences and crimes are viewed by the Garos seriously and strong action was taken against such offenders, which meant killing of the guilty. However, the British rule in Garo Hills had totally stopped rampant killings. The Christian doctrines spread its message of forgiveness to the offender. This was against the traditional practice based on the principle that if the offender is killed it would put an end to the offences. On the contrary the British introduced an entirely new concept of compensation 'dai' in which the victim got some material benefit by way of compensation.

Today, evidence is presented formally than before, and the intimate knowledge villagers have of one another is less likely to be taken into account in reaching to a decision. Since ordeals are no longer possible, denial of guilt has become the trend. Adultery cases usually end without a decision. The result is hard feeling which are never mollified; some villagers said indisgust that in the moderntimes the accused persons would continue with their adulterous behaviour at slightest opportunity.

After the introduction of the legal systems in the district, the decisions are made by the professionals without taking into consideration the customary laws and practices. They take a very objective view and their decisions are merely technical and the humane feeling with which the mahari settled the dispute was totally lacking. In this respect Roy and Rizvi (1990, p.24-25) write that, "on trying to assess the judiciary of India it becomes evident that the customary sanctions in India had always been undermined and not even given the secondary importance by the judiciary. The formal system of judiciary served and was sought only by handful of elites who had the resources and the understanding of its intricacies. Majority of the Indian populace resorted to their traditional means of seeking justice, which too was at a constant threat of falling apart. Since the people were loosing their credibility in their traditional councils anticipating a better and forceful alternative in the formal system of judiciary. In the mean time the Indian judiciary which developed in accordance with the blue print of the British had acquired all the nuances of an intricate institution, where moral, purity and ethics were unheard of. The entire operation depended upon presentation of the case professionally, mainly by highlighting the points which would

build up the case and underplaying the weak points of the case. The entire thing was technical and mostly the contesting parties understood very little of the technical jargon. The individuals becoming totally dependent upon the manouvering of the lawyer who took up their cases. The entire process required constant pumping up resources, resulting in total financial bankruptcy of an average man, without attending justice. In contrast the expenses incurred for assembling the traditional council demanded at the most providing meals for the council heads .....

too late in the day the general public realised the importance of their traditional councils; but it was too late to retrieve the institution which had fallen apart due to disuse.

Further, Roy and Rizvi elaborate that these sanctions being not coded are passed from one generation to the other orally. Though the judiciary realised the plight of common man specifically the ones from the remote areas but it was helpless since, cases after cases kept on piling in the courts. The 'lok adalat' was of little help since the number of cases were alarmingly high and the formal legal system remained the only source for seeking justice. The few areas where the traditional councils still operate and are

functional in the Garo hills and the aim of the study would be mainly to highlight upon the cases which are brought to the traditional council and then placed in the district courts. This dual approach accepted by the Garos pertaining to dispute resolution would focus upon the changing trends and patterns of the traditional legal system and the transition of the tribal community. Besides, the study of patterns of dispute, how they originated and how they are resolved in this Garo society would bring out the mechanism by which disputes are resolved in the Garo society. Thus it is a study of law in culture of the Garo society.

#### Methodology and Collection of Data:

Field methodology and data collection are vital and important part of anthropological research and the researcher has to be adequately aware and equipped to venture in the field. For the present study mainly five anthropological tools were taken into consideration which are observation, questionnaire, case study, genealogy and village study.

Observation being the simplest scientific tool employed in the field is one of the most original on archaic methods employed by any human individual. In this respect I had an edge over others since I was born and brought up in a Garo household and stayed in the districts headquarters of Garo Hills i.e. Tura. Thus being a member of the community under study [was spared the initial 'cultural shock', which becomes an acute psychological stress for an anthropologist isolated in a new culture during the tenure of field work. The prime factor of communication and its inadequacy is a major hurdle for most field workers which I never had to

overcome. Further, the behavioural cases I had acquired from the childhood and did not have to pick them up prior to the field work. My personal attire never shocked my informants and all these factors put together blended me superbly with the environment and the people and I was not considered an 'outsider' by them. Yet, I was always conscious and very cautious about my overlooking certain events and behaviour as unimportant and natural, By the process missing out the relevant portion of data. However, this constraint of being from the community under study was overcome by objectively reviewing each mundane aspect of Garo life. Hence, for the present study observation was made within three distinct phases, participant observation, unstructured interviews and use of key informants. The participation of the researcher in the day to day life of the community or his participation in specific selected activities during the annual festivals and rituals, immensely help in collection of data with minimal error involved. The interviews with the individuals were mainly unstructured and only when enquiring about a specific case or conflict the questionnaire was used. This questionnaire was not simply a translation of the specific objectives in Garo but it is a carefully structured proforma with specific question meant to probe the informant. The sequence of the question are also streamlined so as to bring out the maximum information from the respondent and to maintain a free flow of his thought. The draft of the questionnaire was pre-tested in the field prior to being finally applied to the field. Use of key informants was made during the field work since, elderly members of the chatchi, the Nokmas and persons involved in specific cases

were used as key informants through whom cross checking and maximum yield of data was obtained. Further, during collection of household census frequently genealogical method was adopted to facilitate recording kins and affines upto four generations conveniently. Genealogical method is the systematic documentation of history of the descent of family and in depth analysis of bio-cultural events related with a filial generation. With the preliminary survey being over I had to get to the specific i.e. dispute resolution and the rapport established with the villagers were sufficiently congenial. The villagers who had undergone a conflict with a family member or kin unhesitatingly confided to me and there are 61 such cases both civil and criminal. Cases from the unreported High Court cases and thirty eight similar cases from subordinate. District Council and District Council Courts have been compiled and analysed.

As an field worker, I had to see the actual workings of law in society, and in doing that it turned the focus to the examination of disputing. In the anthropological study of law, the word "case" has usually referred to the gathering of materials about disputes. Anthropologist have used the case method in the search for systematic aspects of procedural and substantive law, for uncovering important legal postulates for abstracting values important to a society ( Nader, L. & Todd, Harry. 1978, p.6).

I have taken (a) observed cases and (b) cases taken from recorded materials in this study. The opportunity is very rare

to record the genesis of a grievance or a conflict before it becomes a dispute and to observe ongoing grievances, conflicts or disputes depends on a combination of circumstances and luck; which means that it has to be in the right place at the right time (Nader, L. & Todd, Harry. 1978, p.7).

The case materials have been collected from the Subordinate District Council Court and the District Council Court also. In the Deputy Commissioner's Court there were old records of British Administration but they are kept in haphazard way and difficult to locate any related files. During my field work I have gone through all these available case materials wherever I got the opportunity. The family friends and visitors were very helpful while discussing some customs and rules practised by the Garo. Most of the cases were under the heading inheritance and succession of land and property since every Garo wants to inherit their family property. These cases made me realize that the Garo society is going through a phase which is bound to bring radical transformation and therefore, I thought it would be most appropriate to study dispute resolution. Hence, the present study is an attempt to analyse the legal system of the Garo tribal society in Meghalaya. The traditional tribal council is the proper institution which is solely empowered to dissolve all disputes, quarrels and confrontations in the society. This traditional council consists of three units: family, (clan) and village. This institution is as old as this society itself which deals with the customary practices and usages to settle the

breach of norms by the individual as well as the groups of people. This indigenous disputes settlement machinery is an important for processing disputes as this society did not use government courts in the past and that is, it is to be seen how it is being preserved even today or it is undergoing changes and if so, to what extent.

Society undergoing change is restricted by the written law. However, the customary law is flexible according to the situation and time and also depends on the gravity of the dispute. Customary law is a moral order and not precise, whereas written law is precise and very technical.

While written law is enforceable, customary law is traditional and all members of the society are bound by it. Tribe is a group of families who have a feeling of community through occupying a territory and having similar customs. Tribe and tribal are convenient terms for indicating that the people still follow custom rather than law. Llewellyn and Hoebel advocated the analysis of "trouble-cases" as the "main road" to gathering data on law (1941, p.29), legal anthropologists have made use of instances of dispute and any subsequent handling of the matter as primary sources of data.

It is evident that custom is the source of law in this society. It is the law of the society which comes down from one generation to next. It is a continuous process, which governs this tribe.

The state of Meghalaya comprises of the Garo, Khasi and

Jaintia hills. It is a table-land which is an extension of the massive block of Indian peninsular shield separated due to denudational and tectonic forces. Goalpara and Kamrup districts of Assam on the west borders the state on the north which Bangladesh international border lies in the south and the Karbi Anglong borders in the East. There is no integrated historical account of the state as the inhabitants live in different tribal and groups and have varied cultural and linguistic patterns. They till recently lived in physical isolation. There is some reference about them in Burunji that is ancient chronicles of the Ahom. From the historical records of the last century some picture can be constructed by the supplementing with inscriptions, coins, copper-plates and structures that indicate the occupation of the state's northern fringe even before Christian era. The pre-historic archeological excavation conducted recently suggest that the Rongram valley of the Garo Hills was inhabited in the paleolithic times. The historical accounts suggests that in the wake of migration in North East India through the North Eastern routes one of the important sub-families the Mon Khmer and the Jaintia speaking people inhabited the area. The denomination of these linguistic speakers were subsequently driven away by the Tibeto-Burman<sup>n</sup> hordes into Khasi Hills and the Jaintia Hills. Since this is the only part of the North East India in which this sub-family exists now. The three groups of the Tibeto Burma family like Kuki-Chin and Naga were driven to the North-Eastern Hills. The Bodo dominated in the plains of Garo hills and the North Cachar Hills. They were later subdivided into Garo, Kachari, Mech, Dimasa, Tippra, Lalung, Chutiya and Rabha groups (Borkakati 1969).

Playfair (c.f. Barkakati, 1969) writes that the Garo and the Kachari originally belonged to one group before their splitting into two groups—one group over the Southern bank of Brahmaputra and the other Kachar, spreading over the North Garo Hills was occupied by the British in the year 1872, prior to this the area was administered as a part of Bengal. The area became a part of Assam in 1874, when it was carved out as separate province. The Garo Hills became a part of Meghalaya state after the formation of Meghalaya as state of Union of India in early 1970s. The history of Khasi, and Jaintia hills and its people can be found from the early part of the sixteenth century, as prior to this neither the records nor traditions reveal any substantial information. Moderately large changes were brought forth through development of the settlements and the formation of the Khasi and the Jaintia Hill district in the year 1835 and the Garo district in the year 1866. The capital of these provinces was Cherrapunji in 1827 which later on was shifted to Shillong in 1864. The prevailing groups in the state are the Khasi, Jaintia and Garo. In an amendment made recently provision of Scheduled Tribe in the constitution of India, the Rabha, the Bodo Kachari and the Koch have been given the Status of Scheduled Tribe in the state.

According to the census of 1981, the total population figure of both the districts of Garo Hills (East Garo Hills and West Garo Hills) is 2,72,097. The total number of educated is 18,545 while the number of illiterates is 8,246. Number of households practising jhuming is 71,697. Wet cultivation is also

practised in all areas of the plains. Besides, Garo, Hajong, Rabha and Koch practice wet cultivation. In fact the Garo's had learnt wet cultivation from their immediate neighbours and the yield of wet cultivation is more than jhuming. In jhum cultivation a variety of produce is harvested such as rice, maize, cotton, yam, ginger and vegetables.

Hence, village as a unit of study was imperative. The two villages selected were situated in the west Garo Hills district. Te'bronggre and Wa'ramgre respectively. The twin villages adjacent to each other. Wa'ramgre is older and Te'bronggre is recent. In the sense, that Te'bronggre village is the offshoot of Wa'ramgre main village. However, they have their own respective boundaries a'king and nokma. The map of the a'king and the geneology of the nokma had been prepared by the then Deputy Commissioner Mr.G.D.Walker in 1926. Both the villages have their respective maps along with the names of nokma in the hands of present nokma. Te'bronggre village is slightly looking modern than Wa'ramgre which has only the traditional houses in the village.

These villages fall under the Mouza No.III and their numbers are 31(7) and 31(7A) respectively. The nokma of Wa'ramgre is still alive whom the Deputy Commissioner Mr.G.D.Walker had met for the preparation of the village map and the names of previous nokmas, also the a'king. In Te'bronggre village many changes had taken place in the nokmanship due to the non-availability of the nephew of the nokma according to the Garo

inheritance and succession law. A new nokma has been instituted in 1987 just recently for the welfare of the a'king and the villagers as well.

These villages are not far from Tura, the headquarters of West Garo Hills district and connected by roads and transport which is 19 kilometers away. The oldest road runs through this village which leads to Dadenggre, a headquarter of Dadenggre Development Block on the west. This road further proceeds to a small township named Fulbari which is a commercial place at the most western border of the district facing Bangladesh and Assam. According to the Census of 1971, the population in these two villages is 355 and 303 respectively. However, I have taken 100 households from both the villages for the study of village setting and their day to day life. Except one Governmental office run by the Range Officer, Soil Conservation Division of Garo Hills, there is no other governmental or non-governmental offices are to be seen there. Here the villagers are learning how to cultivate rubber, coffee, black pepper, cashew nut and tea. Two primary schools and one Aided Middle School are giving the basic education to the village children in the village. One High School which 5 kilometers away from the village provides the high school going children who really wish to pursue their studies. Village children are very reluctant to go to schools, they prefer to work in the fields along with their parents. It is hard to find any matriculate except three in number so far who are prosecuting studies in college in Tura.

These villages are dominated by A'gitok clan whose nokmas are from Bolwari and Rangsha clans from Marak chatchi, while A'gitok is from Sangma chatchi.

Their main occupation is agriculture. Shifting cultivation is practised by every household in both the villages. Some households have wet cultivation which is also becoming popular among them. The main produce is rice in both the cultivation. In the hills they cultivate maize, millet, and cash crops like cotton, yam, chillies, ginger and plenty of hill vegetables, etc. The Garo society is matrilineal. It is divided into several exogamous clans called Chatchi like Sangma, Marak, Momin, Shira and Areng. These are the five major chatchi in the whole district. These chatchis are sub-divided into many exogamous sub-clans called ma'chong e.g. A'gitok Koksep Sangma. The structure of Garo society follow certain norms of behaviour in their intra-familial and inter-familial relations based on the matrilineal kin groups and follow with regularity. This principle of reciprocity is still held in high esteem in all their economic and social activities and also in the maintenance of the household of every family.

The social institutions of chra, mahari and nokma are important aspects of Garo society. Many disputes arise out of disagreements with respect to inheritance, succession, marriage, divorce, forfeiture, adoption and guardianship in the society. In this respect, the chra and mahari institutions settle such disputes among the clans without the services of

nokma. From clan elders it comes to the notice of nokma if it fails to settle by themselves. Thus it becomes a village affair. Garos are very strictly controlled by moral code of conduct.

The Garo call the traditional council as Melaa saldonga which literally means gathering to discuss, decide, negotiate, and adjudicate in case of breach of norms. Every traditional council has its institutional court which is based on the principle of sacred traditional laws and is still relevant in the social context.

The Garo make their traditional council as the most suitable institution for processing all dispute as it has limited opportunity to absorb traits and conditions of the legal system, created by the Sixth Schedule of the Indian Constitution.

Since the establishment of the institution of court by the British administration, the villages have tended to become bilegal and the villagers make use of both traditional laws and formal laws. Traditional law is usually referred as 'Custom' while the formal law is implemented by the formal courts. Most of the traditional dispute processing institutions have been heavily influenced by formal laws. It is seen that the formal legal system has to some extent influenced the traditional village council.

Normally the head of the family is the father, then mother and children come next. At the time of family dispute or trouble, the chra or male members of that family along with

the senior most uncle or mama decide on such disputes and the mama presides over such meetings. This eldest chra has the highest status in his sister's family, though he is the head of his own family.

Most of the family and clan disputes are not taken to the village headman to decide, if it is possible to resolve by themselves.

The administration of justice in the society can be divided at three levels: Family, Clan and Nokma in a village.

A Laskar had his jurisdiction over many villages and was the agent of the British Administration. This system still continues at the district level. The laskar used to bring the cases to the subordinate District Council Court from the village Court. From the District Council Court the appeals could be preferred to the High Court at Gauhati.

The judicial system of the Garo gives the most interesting feature of the tribal legal system in Meghalaya. In this study the ethnic identity of the Garo tribe has been taken. The Garo highly regarded their tribal institutions and so they try to preserve them, although they had been living with many non-tribals around them. The autonomy of these institutions itself gives a legal and constitutional status in the area.

The present work is a study of a single dispute processing institution. As such, it differs from the most of the work on Legal Anthropology, which have mostly dealt with behaviour

surrounding disputes among the people rather than on any particular institution used to settle disputes. In this study, it is shown how a particular institution, i.e. the traditional council, is being utilised, when cases come before it.

- CHAPTER II: History of judicial Authority of the Garo**
- (1) The Traditional Mode of Jurisprudence**
  - (11) The Constitution of Adjudicating Process**
  - (111) Conflicting Contexts.**

The History of Judicial Authority of the Garo:

Like any other social system the Garo too maintain a semblance of an order in their society based on their customary practices. For the Garo traditional custom are as old as their society; they are unaltered, constant and definite. "Custom refers to the totality of socially acquired behaviour patterns which are supported by traditions and generally exhibited by members of society. Custom is supported by psychological constraints which operate when the individual violates the custom and by the social disapproval which deviation from custom may precipitate. In contrast, laws have the additional coercive support of specific individual or groups who have an institutionally vested change to enforce conformity. The sanction of tribal law does not lie in custom but in the continuing acceptance of certain principles of the tribal community. Custom may for the time being reflect those principles but it is the will to continue their application to disputes which gives such principles their sanction" (Wilk, Stanley. 1976, p.113).

The judicial authority of the Garo is based on the institution of Nokma. Nokma looks after the village land as well as members of the village. The village judiciary system started with the A'king Nokma or Songni Nokma and the clan elders of that village. Nokma took the leadership in all village activities and since he was supposed to be a warrior, he was not expected to hesitate to punish the guilty if he suspected a

foul play. In past the Garo principle was 'blood for blood, head for head'. A villager could not go across to the neighbouring village, without fear of being killed by the member of that village without any excuse. They did not tolerate people crossing over from other villages. The physical strength was the determining factor in exercising the authority over each other in those days. That was the reason why the warriors were expected to be powerful, strong and ferocious, and attack on slightest provocation. They attacked strangers with the same alacrity as they would hunt the wild animals. Killings was the order of the day.

Hunting, raiding, beheading and attacking was the way of life for the Garo. In those days, people collected human skulls and decorated the roof of their houses with them. Head hunting was considered an act of chivalry, a symbol of higher status and social distinctions. We may speculate that this practice might have originated owing to mutual suspicions, which lead to attack and counter attack. But it is clear that this was not a senseless activity because the institution of slavery was closely associated with it. During the raids the people who were caught were kept as slaves 'nokkol'. These slaves were expected to work in the fields and households of their masters. Keeping slaves was not merely a status symbol but enhanced the economy and position of their masters. Some of the prosperous families had as many slaves as sixty. More the slaves more the prosperity of their owners. As their economic status went up they engaged themselves in trade. They could not tolerate the sight of an

outsider anywhere as a result of which a lot of mutual suspicion was generated. They often raided the village in the neighbourhood, as well as in the plain. (Pianazzi Fr. 1934. p.3).

Such violent attacks became more frequent when the Garo were brought under the Zamindars of Susung, Sherpore, Karaibari, Kalumalupara, Mechpara and Habraghat during 16th and 17th century-A.D. (Report on Administration of Assam-1892-93).

"The Garo raids were counter-productive of a practice in Mymensing and Rangpur, called in Bengali 'Matha Rakha' (head-preserving) whereby the plains people were required to voluntarily offer the Garo rice, salt, cloth, utensils and other commodities to save their heads from being chopped away." (Bhattacharjee, J.B. 1978, p.89).

There was no boundary of any a'king and an a'king could be extended by collective efforts of the concerned people. Territorial extension thus generated tension and confrontation resulting to inter-village and inter-clan feuds. Their offensive methods were typically indigenous all the planning done at the nokpante. At the village approaches bamboo-spikes were fixed, rolling of boulders from hill-top, surprise ambushing of the enemy.

They visited markets at bordering plains with their produce from the hills like raw cotton, chillies, ginger, wax, rubber, lac and other things to barter for essential items such as salt, dried fish and jewellery of all kinds and most important metal implements and weapons which they needed so desperately. In

other words, to generate surplus they needed slaves. To get slaves they had to attack the plains or neighbouring villages. To win and captive slaves they needed to be strong and alert. Obviously in a situation like this economic strength promoted the physical strength.

It is reported that Rengta was one such warrior and leader among the Garo. He was a chief of a group of southern Garo villages and used to lead others in trading in markets. His influence increased through his wealth. Another such leader was Monkual. His power over the people was 'astonishing and his will was the law' (Mackenzie, A. 1884, p.246-47).

The nokmas or chiefs began to distinguish themselves from common people by use of a special ornament called 'jaksil' which was a heavy ring worn just above the elbow. The privilege of respectability were extended to wealthy and influential men of the groups who were allowed to wear such rings by headman or a'king nokma on payment of certain sum of cash or kind. It suggested that the individuals who emerged wealthy and influential could become nokmas or attain such high position by payment. The tradition showed that wealthy individual could give feast<sup>s</sup> to the people many times in a year and the poorer section could depend on them at the time of their need. That way such persons could command influence over the people who become dependent on them. Sometimes such powerful people demanded an additional wife from the clan of his wife to look after their additional wealth.

One of the factors that enhanced the assets of the wealthy persons was trade through market. These wealthy and influential people gradually started using coins of Koch kings. The Garo women also started wearing necklaces made of coins. These people sold a human skull ranging from 10 to 10,000 coins and fetched good sum of money even before 1815. The markets which were the source through which his leaders enhanced their wealth and power belonged to the estate-holders on the plains. That pattern accelerated to the process of feudal pattern of land-holding by private ownership and the traditional institution had recognized the ~~traxax~~ 'nokma' as its chief of a'king land.

(a) The traditional mode of jurisprudence:

The Garo law had various principles which they observe in deciding civil and criminal disputes. This tribe as a whole is an important subject for law and explains the rights of the community.

The Garo practised democratic principles in the village institutions and their administration. If there were family or clan disputes the clan elders called the chra and mahari tried to solve the problem. The chra had overriding powers, as a result the family disputes did not go out of their hands. The oldest chra had the power to decide and his words were final and binding.

The clan meetings were held in the household of the complainant of the dispute. Both the parties were called to attend the meeting where the decisions would be taken. Those meetings were

called mahari melaa which is still practised till today. This institution was most effective and each clan had such institution for all types of disputes and quarrels. These kind of melaas were held in every clan even without the notice of the nokma of the village.

These meetings were called when there was an issue to the succession to a family, marriage to a member of the clan, death of a clan member, sickness, divorce, engagement, death ceremony, birth and naming of the child, accident, misfortune, theft and any violation of moral laws and taboo or social prohibition. These melaas were restricted mainly to the clan members.

In such meeting of the clan elders were able to identify who was the guilty, then the punishment that was given to such persons was beating. Beating was done by all the elder members of the clan. If a woman had to be beaten then her husband had no right to beat her, only the elder members of the clan could do that. If it was a case of an incest, the couple was killed or excommunicated. Nobody could tolerate such an act of incest in earlier days. The penalty for adultery, if it was first offence, was to tear off the ear lobe of the woman and reduce her clothes to rags, so that her neighbours would scorn her, and if she repeated the offence, she was killed. If a man was convicted of adultery then he was either sold as slave or killed. (Playfair, A. 1909, p.70). For committing rape, the person was beheaded or outcasted from the village.

Taking revenge of an old murder, adultery or insult was a clan responsibility. In case of any murder, the relatives of the slain were bound to demand blood for blood, and according to the Garo custom, either the murderer or one of his kindred, or at least one of his slaves, was put to death. Killing and counter killing would continue unless the council, i.e., the elders of the clan, succeeded in bringing about a reconciliation, (Hamilton, F. 1940 p.91). In settling inter-clan disputes, the adjudication was necessary. If the arbitrators succeeded in effecting peace, the parties swore to observe it by biting their swords, and as a sign that friendly relations have been restored. The representatives of both the clans had to put food into each other's mouths, and pour liquor into each other's throats, which symbolised that an agreement has been reached (Dalton, B.T. 1872. p.23-24). A dispute was also settled by paying dai or compensation in terms of bulls and pigs and gongs (Administration Report for 1878-79). When the animals were paid, every member received a piece of meat.

Compromises were also reached to settle disputes by taking hold of each other's wrists and declaring publicly that he had no further ground for complaint. This was called jakgitok sika or compromise by holding wrist. After that they had drink from the same big earthen pot called dikka (Playfair, A. 1909, p.76).

Oaths and ordeals also played a vital part in the judicial process among the Garos. In ancient days, these were universally practised. Gustave Glotz (Nath, B.1979, p.119) remarked

"there is perhaps no country in the world which has not made use of some test of moral import, imposed upon him who would enforce his claim or demonstrate his innocence. Trial by boiling water or by cold water, trial by fire or by poison, whatever the method and <sup>t</sup>whaever ~~there~~ era, the belief is always found at a certain stage of a people's social and religious growth, that the best made of enduring a controversy is to place one of the disputants in the same position of serious peril and thus to force the divine beings to take sides for the sake of doing justice." Thus fire and water ordeals appear to be the earliest and most primitive method. Oath is closely related to ordeals. Both practices were widely practised in ancient times and use of oath is still current in law courts. In the present practice of the law courts, witnesses are required to take oath before giving evidence. In the opinion of modern sociologists, the psychology which forms the basis of ordeal and oath is the same.

The Garo practised both the oath and ordeal to find out the innocent and the guilty mostly in absence of witnesses and evidences. After finding out the culprit, then the punishments were done in the presence of the village elders. As the Garo have great reverence for truth, their mode of attestation on oaths were very solemn and they were afraid of the consequences of telling lies for fear of retribution at the hands of supernatural power.

Major Playfair (Playfair, A. 1909, p.75) had summarized the Garo oath as the Garo oath is a long one and consists of a declaration of the truth of the coming statement, and then of

calling down upon the speaker all the worst evils that can be imagined, should he speak falsely". Other kinds of oaths were as follows:

An oath taken by standing on a stone which they saluted first, and then, with their hands joined together, lifted and their eyes steadfastly fixed on the hills, called upon their god in the most solemn manner to witness whether what they were about to declare ~~wikh~~ was true or false. Again they touched the stone with all the appearance of the utmost fear, and bow their heads to it, again calling upon their god. During this ceremony, they looked steadfastly to the hills and kept their hands on the stone (Sangma, Milton, 1982, p.94).

Another type of oath which was taken was by placing a tiger's bone between their teeth before they started giving evidence, some others took an oath by biting a tiger's tooth, which Playfair implies that "if I have spoken falsely may my death be caused by such a tooth as this (Marak, Karnesh. 1964, p.32). One practice of the Garo was that of grasping the metal weapons and sw<sup>a</sup>ring before the assembly of the heads of the families (Carey, W. 1919, p.27).

Other mode of attestation was by taking the earth in their hands. Sometimes they took the earth in their mouths and swallowed it and swore that their statements are true (Sangma, Milton. 1982, p.94). Rev. Ayerst also gave an example that when a Garo is sworn in the Goalpara court, a little chalk (instead of earth) scrapped from the wall answers the purpose of earth. Likewise

Garos used meteoric stones where the oath was taken repeating "may Goera kill me with one of these if I have told a lie " (Playfair, A. 1909, p.30).

Another form of taking oath was to cut off the head of a fowl, and run a short slip of bamboo from one side of the head to the other through the eyes. The person taking the oath bites this head and swears upon God that his own eyes may meet like a destruction if his word is false (Playfair, 1919). Another common oath was by touching the heads of the children. It was believed that the swearing by heads of the children, the children would die for the sins of their parents (Marak, Karnesh. 1964, p.31).

A person called out a tiger or elephant or any wild animal also an alligator to kill him or her if the truth is not spoken (ibid). "May the Sungod kill me, tiger bite me, elephant kill me, I am speaking in the presence of the sun and if I have done the least offence may my hands be cut." Till recently the Garos were taking oath in the Deputy Commissioner's Court as "I will tell the truth, otherwise the tiger will bite me, and the elephant kill me. I will not tell lie (Sangma, Milton. 1982, p.95)).

The oaths taken were given time limit for seven days, fifteen days or sometimes even a year depending on the seriousness of the offence. After taking oath, if anything untoward happened to the person, then the person was declared guilty. It is believed that the Garo would not tell lies. In the past every attempt

was made to speak the truth, and it was generally believed that if any person spoke falsely about anything, he would receive the anger of the gods and some misfortune would befall him.

#### Ordeals:

When the oath failed to have any effect on the oath taker and evidence could not be adduced, then the trial was resorted to by ordeals. To go by ordeal both the parties had to give consent by giving opportunity for either of the parties to get out of the difficult situation without damaging their prestige or blemishing their character. One such ordeal was sil so'a or ordeal of hot iron. A piece of metal was brought to the blacksmith who was paid a small fee for heating it. When the iron was red-hot, the priest or kamal administered an oath to the person to be examined, and informed him that no harm would come to him if he spoke truth but warned him of the consequences if he spoke falsely. The person who had to undergo the ordeal, stretched out one hand before him, with palm upturned. The priest laid down upon the palm some jackfruit leaves, over which the red-hot metal was pitced<sup>h</sup><sub>^</sub>. Then the person was asked to close his hand and the hot iron was drawn through it (Playfair, A. 1909, p.74).

Another type of sil so'a ordeal was as follows: a tripod was heated to red-hot and the accused person was asked to sit over it. If the person was guilty the fire showed its eagerness to burn him by throwing sparks as he approached it. Being frightened of fire, the guilty person at once confessed his

guilt (Sangma, Milton. 1982, p.96-97).

Yet, another type of sil so'a ordeal is recorded for which the Kamal has to undergo a fast from the day prior to the trial. On the day of trial he heats a metallic bell, in case the metallic bell becomes hot, the accused is found guilty of his crime (Rao, V.V. 1962, p.312). There was another mode of ordeal called chokela so'a. An egg was placed in a deep pot of boiling water and the person's veracity was tested by asking him to plunge his hand and pick the egg out. In some parts of the district, boiling water was poured over the arm of an accused person; if it burned him, he was proved to be guilty (Burling, Robbins. 1968, p.253). A favourite method of chokela so'a was to heat a carefully measured amount of water with a carefully measured amount of firewood. If the water boiled with the limited firewood the accused person was proved to be guilty.

The most dangerous method of testing a man's veracity was to tie him to a tree and leave him out in the jungle whole night. If he was found alive the next morning and was not devoured by a tiger, he was supposed to have spoken the truth. This method was followed till recently but an animal or a fowl was substituted for a human being (Playfair, A. 1909, p.75). The ordeal where two opponents were required to dive under water, the last to come up thereby demonstrating his veracity (Burling, R. 1968, p.253).

In another ordeal the accused person was put into a long basket with a cat on his shoulders. One of his hands was left free and protruding through the hole at the top of the basket. (Rao, V.V. 1962, p.312). The basket was then lowered by a rope into a deep water. If the person was able to bring up a handful of sand and was not scratched by the cat, he was declared not guilty of the crime. In a serious offence, the accused was tied to a tree in the dense forest and left him there for several nights with the chance of tiger coming that way (Sangma, Milton. 1982, p.98).

The a'krom ordeal was another dangerous method. A spot where once a man had been killed by a tiger was called a'krom and Garos never dared to go near it. For the most serious offence like incest, the village elders took recourse to a'krom ordeal. The man was ordered to lie down at that spot for the night and if he was found alive without injury the next day, his innocence was proved (Sangma, Milton. 1982, p;98).

After a person was found guilty, action to give him appropriate punishments or dai was taken. I have already mentioned some of the punishments earlier.

These oaths and ordeals were resorted to under this belief that the result clearly show that one party or the other was wrong. Mostly people accepted the outcome and compensations was paid and the disputes were settled. In sil so'a ordeal, the person would suffer no harm if he had spoken the truth,

but otherwise, he would be badly burnt or scolded. In order to take revenge, the weaker party fled to the distant hill to elude the stronger. At this, both parties planted a tree bearing a sour fruit called silika, and made a vow that they would do their best to eat the fruit of that tree with the head of the enemy. A generation might pass away without the opportunity for revenge. In that case, the feud was passed on from parents to the children. The successful person beheaded his enemy, and boiled the head with the fruit of the silika tree that had been planted. He then drank the juice thus mixed and portioned out to his assembled friends, who partook it with him at a feast. The tree was then cut down and the feud was declared over (Sangma, Milton. 1982, p.101).

#### AFTER BRITISH CAME TO POWER

When the Britishers came to take over the administration of this district, one witnessed an imposition of hierarchy of new political and administrative units in the district over the traditional democratic village set up. The British Government, being actuated with the desire to have effective control over the villages and to facilitate the collection of revenues and house tax introduced the office of laskar with limited police, civil and criminal powers. Accordingly there was a laskar over a circle of villages; each having jurisdiction covering ten or twelve villages. Although, the villagers were left to settle all disputes through the nokma and the village courts, they had right to appeal to the court of laskars against the decisions

of the village councils.

Same way by the introduction of offices of sardar, hill mandal and hill mauzadar curtailed the powers and authorities of the nokmas and their village councils. This introduction of new offices had created for the effective administration over the Garos with the idea of village self-government under the direct control of Deputy Commissioner at the centre.

The oath and ordeals continued to be followed even during the British Administration. The district authority intervened only in cases where ordeals were of serious nature threatening life. The Deputy Commissioner warned that the Garo's would not practice the ordeal of leaving a person defenceless for several nights in the deep forest. If they did repeat the ordeal they would incur the risk of severe penalties if any harm should come to the accused person (Playfair, A. 1909, p.75). Since then this ordeal was changed. A fowl or buffalo was substituted for the human being.

Under the custom of killing an enemy, the settlement of disputes fall on demanding dai or gro. As the British Administration had stopped the practice of killing, the demand of dai had become popular and even the most frivolous pretext was sized on as an occasion to demand dai and in this way, much ill-feeling was caused (Annual Administration Report, 1878-79).

During the British administration, the institution of nokma had become more effective and the nokma had more peaceful time in the village. He decided the settlement of disputes

along with the village elders in the bachelor's dormitory or nokpante at the centre of the village. In those days fine or dai meant demanding an animal which they expended in feasting. Dishonesty and stealing were not tolerated which was the main source of dispute and appeared to be the cause for murder. In consequence the relations of the slain were bound to demand blood for blood. On the occasions of public importance, all the villagers assembled in their war-dresses with a shield and a sword. They sat in a circle, their swords being fixed on the ground in front of them. In the debate, even the women took part. Their resolutions were carried out immediately, if they were related to war, otherwise their meetings concluded with feasting, singing, dancing and drinking (Elliot, John. 1792, p.17-37).

Recorded Case No.1- The effective administration was started at Tura, at the centre of the district by Lt. Williamson in 1866. During this time there was one man named Thoding who was sentenced to death by him for his barbarous acts in the village. He had been hanged to death at Tura in full public view so that no one would follow his example of seeking revenge in the future. It was a case of insult by his fellow villager to Thoding. To take revenge, he burnt down the village and as the women and children ran out of their houses he killed them.

The administration introduced a monetary system in the district. All fines or dai were converted into terms money. However, the fines and dais were prescribed according to the valuation of the currency prevalent in those days. Till today

that evaluation had not been revised. At present, the wrong doers could easily pay such small sum of money and could violate the customary laws again. The demand for pig, fowl or buffaloe still remained as it was before. Nowadays the price of the animal is heavy, but there is no escape from the demand or 'gro'.

The Regulation X of 1822 was passed exempting the Garo from the operation of the existing Regulation and for establishing a special judicial system in the district or bordering areas on their possessions. The Civil Commissioner appointed by the Governor General-in-Council adopted the Regulation X of 1822 with the principles and spirit of the existing regulations for Bengal, subject to restrictions, modifications and other alterations and amendments as ordered. Criminal and civil justice was provided for administrating the Garos for which all the functions and authority were equipped to charge the offences. Thus the judicial administration entered among the Garo gradually. After the Regulation X of 1822, the Act XXII of 1869 extended the judicial system which was conducted by the Commissioner, Assistant Commissioner, laskars and sardars were consulted for the Garo customs.

As stated earlier the institution of laskar was first introduced by David Scott in his Draft Regulation of 1819, for the effective administration of the Garos. The main duty was to report on killings and serious offences within their jurisdiction. The Act of 1874 gave this office a legal status. Laskar was assisted by sardar in his duties and acted on behalf of laskar in his absence. The Commissioner tried Garo cases, where he had

to consult laskars and sardars connected with the traditional customs and manners of the tribe and also their opinions as to the guilt or innocence had to be taken into consideration.

Formerly, the laskar and sardar were appointed to act like rural police with civil and criminal powers in the villages. Therefore, the laskar acted as a rural magistrate and also collected house tax from the villagers. He could impose fines upto Rs.50/-. They maintained law and order as they were men of weight among themselves and mostly they were the chief nokmas of their own village (Sangma, Milton. 1982, p.69).

Barbarakar was an liaison post instituted by the British. He was mainly meant to coordinate the collection of revenue. The office of Sarbarakar was also introduced by the British Government but it did not continue for long and was abolished in 1857. In 1860, this post was created again by Capt.Jenkins but it also was dissolved in the revenue office in the district after Garo Hills became a district in 1866.

In 1865 Capt.Morton created another post of Zimmaradar. It exercised some criminal powers in petty cases and civil powers in property disputes, and collected revenue. Zimmaradar's laskars post was abolished and merged with the office of Laskar.

The post of Mauzadar was created in 1878 for the purpose of assessing and collecting the land revenues, house tax and other taxes. There were two types of mauzadars: the hill mauzadar and the plain mauzadar. Capt.H.J.Peet had appointed four Garo boys as hill mauzadars who could read and write in

Bengali. They were all Christians and got education in missionary schools. This post continues till today. There are ten mauzas in the entire district. Each mauzadar was assisted by a Mandal whom Mauzadar appointed with the approval of Deputy Commissioner of the district. The post of Mandal also had both the hill mandal and the plain mandal who were supposed to assist the Mauzadar in their own capacities. The mauzadar had to take them in his tours of inspection in the villages and settle some disputes on a'king or revenue matters. The plain mandals were trained by the Survey Department and their function was survey and demarcation of lands. The office of Kanungo was also established to supervise the work of twelve mandals in the plain areas of Garo Hills district. The post was created later than other posts. Kanungo worked purely as a revenue official.

After the Act XXII of 1869 another Scheduled Districts Act XIV of 1874 was introduced for the administration of civil and criminal justice in the district where the Deputy Commissioner, Assistant Commissioners, Laskars and Nokmas were entrusted. The Deputy Commissioner was competent to pass sentences according to the seriousness of the offences with the sanction of the Chief Commissioner. Laskars were to dispose cases of theft, injury to the property of whatever kind, injury to the person not endangering life or limb, house trespass, affronts of whatever kind, gambling and drunkenness of disorderly brawling. Such cases could be fined upto Rs.50/-. Laskars were to award restitutions or compensation to the extent of the injury sustained and enforce it by distraint of the property of the offender. They were to carry out their decision of order

attachment of property as soon as judgement was pronounced. Laskars were not to decide cases in which any relatives of theirs or their wives were concerned. They were also not to decide cases when the defendant was not a native of Garo Hills district or not a resident within their jurisdiction. Finally, where the offence was one against the state or had caused danger to life or limb, or in cases of robbery of any sort with violence, or passing or counterfeiting coins; or the making of fraudulent documents, and the like it would be beyond the power of the laskars to try. The Act XIV of 1874, was revised in 1910 and again in 1937 without making any significant changes into them till India attained its Independence.

(b) The Constitution of Adjudicating Process:

Even after the Britishers left India, the Administration of justice were carried on till the Autonomous District Council came into being in 1952. Paragraph 4 (4) of the Sixth Schedule to the Constitution of India, the Garo Hills Autonomous District Council framed the Garo Hills Autonomous District (Administration of Justice) Rules, 1953. This Rules contain Provisions for the Constitution of Village Councils, District Council Courts, Subordinate District Council Courts and Village Courts and with their powers and jurisdiction to try suits and cases.

Till 1969, the Garo Hills District was part of state of Assam but in that year an autonomous state of Meghalaya was formed within the state of Assam as provided by section 3(1) of Assam Reorganization (Meghalaya) Act, 1969 (55 of 1969). In pursuance of that Act, the Rules of 1937 and 1953 were adapted by the

Meghalaya Adaptation of Laws (No.1) of 1973 issued under section 79 of that Act. The Government of Assam acting under paragraph 4(3) of Sixth Schedule to the Constitution of India, issued the Assam High Court (Jurisdiction over District Council Courts) Order, 1954. The Order is material for ascertaining the position as to the appellate and revisional jurisdiction of the High Court of Gauhati, as regards to the Garo Hills district. This order is still in force (Sangma, J. 1973, p.160-65).

At present, there are atleast three major sets of statutory instruments relevant to the judicial administration which are applicable in the Garo Hills District. They are namely; (a) Rules for the Administration of Justice and Police in the Garo Hills, 1937, issued on the 29th March, 1937 to the extent to which some portions of these Rules still survive. (This is a matter of considerable obscurity). (b) Rules for the Administration of Justice in the Garo Hills Autonomous District, 1953, issued on the 18th December, 1953. (c) The Assam High Court Order, 1954 dealing with the jurisdiction of the High Court in relation to various District Council Courts in the tribal area in question.

Under Section 5 of the Garo Hills Autonomous District (Social Customs and Usages) Validating Act, 1958 subject to any law force within the Garo Hills Autonomous District all customs and usages and customary practice universally prevalent among the Garo people of the district have the force of law, provided that such a usage or custom is not against morality or public policy, has been enacted in the district.

Village Council:

The working of Village Council had continued from ancient days. However, since the inception of Autonomous District Council in the district, this institution also constituted for each village or a group of villages within the jurisdiction of the District Council. According to the Village Council Rules, 1971, 50 Village Councils in the hill mauzas and 12 Village Councils in the plain mauzas are officially constituted.

Each Village Council is composed of a laskar of the village, of the village, recognized by the District Council and the elders, half of whom are nominated by the Executive Committee of District Council and other half by election of the adult members of the village where the number of elders for each village council is determined by the District Council. The laskar is the ex-officio member of the Village Council. There is one President and one Vice President in each council. They are elected by the members of the council themselves by voting. The Secretary of the council is appointed by the Executive Committee who maintains all records of the Council; keeping a list of business and time and place before the Village Council; to write and despatch all letters as the President may direct and to be incharge of the stores and furnitures of the Village Council office. Every Village Council has a life of five years from the date of its first meeting unless it is dissolved earlier.

Functions of the Village Council:

The functions of the village council are as follows:  
Cleaning and lighting of village roads and paths; sanitation and

conservancy of the village areas and prevention of public nuisance therein; construction and maintenance and improvement of public wells and tanks for the supply of water to the public; taking of preventive measures in case of epidemic; the opening and regulation of burial and cremation grounds and regulating places for disposal of dead animals; construction and maintenance of places for the storage of cowdung and other manures; maintenance of records relating to population census; keeping cattle census, spinning wheel and handloom census of unemployed persons and landless persons and persons having no economic holdings and other statistics as may be prescribed; constructions, maintenance and improvement of village communications, drains and water-ways; control of village grazing grounds, the locations of bathans (Nepali settlement) within the village, count of other communal property; the relief of the poor, of the sick, or victims of famine, flood and other calamity; regulating the places of slaughter of animals; controlling and maintenance of buildings, institutions or property belonging to or vested in them or which may be transferred to them for management; regulating the construction of new buildings or houses or the extension or alteration of any such existing ones; primary education; opening and regulating cooperative societies and model villages; anti-malarial and anti-kalazaar measures and enforcement of vaccination; registration of births and deaths and maintenance of registers; promotion and encouragement of cottage industries and improvement of agriculture and agricultural stock and maintenance of model farms; prevention of cattle mortality and improvement of cattle breeding; maternity and child welfare; supply of local information as

required to the District Council or the State Government or any other authority; anything necessary for the preservation of public health and for improving the sanitation; planting and maintaining trees at the sites of public places and village roads and paths; establishment of public radio sets for the benefit of the village population; construction and maintenance of libraries, reading rooms, social and cultural clubs and games; encouragement of indigenous sports, folkdances and music; destruction of stray dogs; disposal of unclaimed cattle; removal of encroachment on village roads, public places and property vested in the village councils, and any other functions and powers as may be delegated by the District Council from time to time.

Village Courts:

Each Village Court consist the following: (a) laskar or in the case of non-laskar village member of the Village Council nominated by the District Council. (b) Two members of the Village Council who are elected by the council by a majority of votes. (c) The District Council may, whenever it deems necessary, appoint three persons from amongst the members of the Village Council to sit as a bench of the village court for the trial of any particular class or classes of suits and cases. (d) The laskar of the village and in case of a non-laskar village, the nominated member is the exofficio president of the village court. (e) There is a Secretary to the village court who is appointed by the Executive Committee of the District Council in consultation with the village court and the District Council Court.

The jurisdiction of a Village Court extends to the hearing and trial of suits and cases arising within territorial limits of the village. As regards the qualifications of the members of Village Courts, these courts consist of the laskar (who is a person recognized by the District Council) and two members of the Village Council elected by the Village Council. Specific provisions as to their qualifications do not appear in the Rules. The Village Council itself has a tenure of five years (unless dissolved earlier). Presumably, this determines the tenure of the members sitting on the Village Courts also. For obvious reasons, the Rules do not provide for the salary of the members of Village Courts.

Regarding the appearance of legal practitioners before these courts, the Rules do not specifically impose a bar on them. However, it may be mentioned that the Rules require the Village Court to "try all suits and cases in accordance with the customary laws of the village" (Sangma, J. 1973, p.144). All in all, the Village Courts are supposed to be non-professional bodies which would decide cases in an informal atmosphere without procedural technicalities and formalities.

#### Subordinate District Council Court:

The headquarters of the Subordinate District Council Court for the Garo Hills District are at Tura. Each such court is presided over by a judicial officer appointed by the District Council with the approval of the Governor. The judicial officer also acts as the Recorder of the Court. The jurisdiction of the

Subordinate District Council at Tura extends to the hearing and trial of suits and cases arising within the Garo Hills Autonomous District. Limitations as to subject matter are separately provided for. The Chief Executive Member or a member of the Executive Committee or any other member of the District Council is not entitled to hold the post of a judicial officer. The District Council may, whenever deemed necessary, direct two or more judicial officers to sit together as a Bench and may, by order, invest such Bench with any of the powers conferred or conferrable by or under the Rules on a judicial officer and direct it (the Bench) to exercise such powers for the trial of particular suits and cases or particular class of classes of suits and cases arising within the Garo Hills Autonomous District. In that case, all references to a judicial officer is construed as references to the said Bench.

The District Council may, whenever it deems necessary, also nominate two or more local elders well conversant with the tribal usages and customary laws, to sit with the judicial officer of the court as a Bench and may, by order, invest such Bench with any of the powers conferred or confer<sup>r</sup>able by under the Rules for the trial of suits and cases based on the tribal usages and the tribal customary laws only.

The Executive Committee of the District Council is to provide the Subordinate Court with such clerical staff as may be required to enable the court to keep all necessary records and registers and to issue summons in the name of the court.

The District Council, with the previous approval of the Governor, may constitute, by Order notified in the Gazette, an Additional Subordinate District Council Court or Courts with such powers, jurisdiction and seat as may be specified in the Order, in respect of areas within the autonomous district and make consequential alteration in the jurisdiction of the courts established under the preceding Rule.

District Council Court:

There is one District Council Court for the Garo Hills Autonomous District to be called "the Garo Hills District Council Court." It consists of a number of judicial officers as may be determined by the District Council with the previous approval of the Governor. This court ordinarily sits at Tura. The court may, however, sit at other place or places as may be directed by general or special order of the District Council for the disposal of a particular case or cases or class or classes of cases specified in the Order.

The District Council is to appoint judicial officers of the District Council Court, subject to the approval of the Governor. The District Council may direct any two or more judicial officers to sit together as a Bench, and may, by order, invest such Bench with any of the powers conferred or conferrable by or under these Rules on a judicial officer, and direct the Bench to exercise such powers in such class or classes of cases as the District Council deems fit.

The Chief Executive Member or a member of the Executive Committee or any other member of the District Council is not entitled to hold office as judicial officer of the District Court. The conditions of service of the District Council Court are governed by the order made or issued, as the case may be, under Rule 15 of the Assam Autonomous Districts (Constitution of District Council) Rules, 1951. The conditions of service of the judicial officers of a Subordinate District Council Court or an Additional Subordinate District Council Court and of the staff appointed for these courts, are to be regulated by these rules made or orders issued under Rule 15 of the Assam Autonomous District (Constitution of District Council) Rules, 1951.

The judicial officers (who preside over these courts) are appointed by, or with the approval of the Governor. The Rules as to administration of justice do not contain specific provisions as to their tenure and salary, or as to their full time or part time character. But most of these matters will be regulated as rules or orders issued under Rule 15 of the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951. It may be of interest to note that there is a specific prohibition against a member of the Executive Committee being appointed to these courts. To this extent, their independence is protected. A legal practitioner can appear before these courts. But in cases where an accused is not arrested, the legal practitioner takes the permission of the District Council Court for such appearance.

Subject to certain exceptions and subject to the provisions of the Rules, the procedure of District Council Court of all grades- (a) in criminal cases the procedure of the Subordinate District Council Courts, Additional Subordinate District Council Courts and the District Council Court is, subject to the provisions of this rule, in the spirit of the Code of Criminal Procedure, 1898, so far as it is applicable to the circumstances of the district and not inconsistent with these rules. (b) in civil cases, the procedure of the District Council Court or the Subordinate District Council Court <sup>or the Additional Subordinate District Council Court</sup> is guided by the spirit but not bound by the letter, of the Code of the Civil Procedure, 1908 in all matters not covered by recognised customary laws or usages of the District. In adjudicating civil cases, all the Council courts adjudicate according to law, justice, equity and good conscience consistent with the circumstances of the case. It shall be discretionary to examine witnesses on oath or affirmation in any form or to warn them that they are liable to punishment for perjury if they state that which they know to be false.

Powers:

A Village Court in the Garo Hills district tries suits and cases of the following nature in which both the parties belong to the Scheduled Tribe or Tribes, and are residents within its jurisdiction.

(a) Cases of a civil and miscellaneous nature falling within the purview of village or tribal laws and customs;

(b) Criminal Cases falling within the purview of tribal laws and customs and offences of petty nature, such as petty theft and pilfering, mischief and trespass of a petty nature, simple assault and hurt, affront and affray of whatever kind, drunken or disorderly brawling public nuisance and simple cases of wrongful restraint.

(c) The Village Court is not competent to try offences in respect of which the punishment of imprisonment is obligatory under the Indian Penal Code.

(d) The Village Court is not competent to pass a sentence of imprisonment in any criminal case, It has the power to impose a fine for any offence which it is competent to try, upto a limit of Rs.50. It is also award payment in restitution or compensation to the aggrieved or injured party in accordance with the customary law.

(e) In a civil case, A Village Court has the power to award all costs, as also compensation to those against whom unfounded or vexatious suits and cases have been instituted before the court. The fines and payments imposed and ordered as above is enforced by distraint of the property of the offender.

(f) Village Court has power to issue an order in writing for the attendance of the accused and the witnesses to be examined in the case and to impose a fine not exceeding Rs.25 on any person wilfully failing to attend when so ordered.

(g) If any person on whom a fine or any payment has been imposed by a Village Court fails to deposit the amount at once

or within such time as the Village Court allows, the court reports the matter to the District Council for necessary action for realizing the fine or dues in such manner as it may deem fit, unless the accused person gives notice of appeal against such decision.

(h) Where a Village Court is of opinion that the sentence which it is competent to pass is sufficient in the circumstances of the case, it shall without delay, refer the case to the competent court, and that court shall dispose of the case in accordance with these rules.

(i) An appeal can be made to the District Council Court from any order or sentence passed by a Village Court in a criminal case, or from the decision of the Village Court in any other case. The appeal is to be preferred within sixty days of the conviction or sentence or decision of the Village Court. The District Council Court, while hearing the appeal, may either decide the appeal after perusal of the records of the case only or may try the case de-novo.

Subordinate District Council Court:

As provided in the Constitution and in the Rules, a Subordinate District Council Court exercises such powers (of criminal courts) defined in Chapter 3 of the Code of Criminal Procedure, 1898, as it may be invested with by the Executive Committee of the District Council with the approval of the Governor. A Subordinate District Council Court has original jurisdiction in all suits and cases in which both the parties do not fall within

the local jurisdiction of the same Village Court, but within the areas under the jurisdiction of the Subordinate District Council Court and also in cases and suits referred to it by a Village Court.

A Subordinate District Council Court is competent to try all suits and cases in which both the parties belong to a Scheduled Tribe or tribes resident within the jurisdiction of the Subordinate District Council Court, other than the suits and cases excepted from its jurisdiction. The following suits and cases are excluded from the jurisdiction of a Subordinate District Council Court:

(1) A Subordinate District Council Court is not competent to try suits and cases- (i) To which the provisions of sub-paragraph (i) of paragraph 5 of the Sixth Schedule to the Constitution apply, unless the Court has been authorised by the Governor to exercise such powers for the trial of particular class or classes of cases and suits specified in that behalf by the Governor as required under sub-paragraph 5 of the Sixth Schedule, (ii) in which one of the parties is a person not belonging to a Scheduled Tribe, (iii) in respect of offences: (a) under sections 124-A, 147 and 153 of the Indian Penal Code,

(b) under Chapter X of the same Code in so far as they relate to the contempt of a lawful authority other than an authority constituted by the District Council,

(c) of giving or fabricating evidence, as specified in section 193 of the same code, in any case triable by a Court other than a Court constituted by the District Council under these rules.

(2) In certain cases, unless authorised by Governor by notification in the Gazette, a Subordinate District Council Court is not competent to exercise powers in:

(i) cases relating to the security for keeping the peace and good behaviour similar to those contemplated under section 107 of the Code of Criminal Procedure, 1898;

(ii) cases relating to security for good behaviour from persons disseminating seditious matter similar to those contemplated under section 108 of the same Code;

(iii) cases relating to the security for good behaviour from vagrants and suspected persons similar to those contemplated under section 109 of the same Code;

(iv) Cases relating to the security for good behaviour from habitual offenders similar to those contemplated under section 110 of the same Code;

(v) urgent cases of nuisance or apprehended danger similar to those contemplated under section 144 of the same Code;

(vi) disputes as to immovable property of the nature similar to that contemplated under section 145 of the same Code;

(vii) cases in which a public servant who is not removable from his office save by or with the sanction of the Government or some higher authority, is accused of any offence alleged to

have been committed by him while acting or purporting to act in the discharge of his official duty.

Suits and cases referred to above as excluded from the jurisdiction of the Subordinate District Council Court continues to be tried and dealt with by the "existing courts" until such time as the Governor deems fit to invest the Subordinate District Council Court with such powers by notification in the Gazette.

The "existing courts" in this context means the courts of the Deputy Commissioner and his Assistants in the district.

When (a) there is any likelihood of breach of peace or (b) whenever any person accused of any offence involving a breach of peace, or abetting the same or any person accused of committing intimidation is convicted of such offence by any court of the District Council and such court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, the matter must be referred to the Deputy Commissioner, who takes necessary action in accordance with law.

Whenever any court of the District Council is informed that:

(a) Any person is likely to commit a breach of the peace or disturb the public tranquility, or do any wrongful act that may probably occasion a breach of the peace or disturb public tranquility,

(b) there within the limits of its jurisdiction any person who within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anyway abets the dissemination of ---

(i) any seditious matters, that is to say, any matter the publication of which is punishable under section 124-A of Indian Penal Code, or

(ii) any matter concerning a judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

(iii) any person is taking precautions to conceal his presence within the local limits of such Court's jurisdiction, and there is reason to believe that such person is taking such precautions with a view to committing any offence, or there is any person within such limits who has no ostensible means of subsistence or who cannot give a satisfactory account of himself;

(iv) any person within the local limits of the Court's jurisdiction,:

(a) is by habit a robber, house breaker, thief or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(d) habitually commits or attempts to commit or abets the commission of the offence of kidnapping, abducting, extortion, cheating or mischief or any offence punishable under Chapter XII of the Indian Penal Code or under section 489 A, section

489 B, section 489C or section 489 D of that Code,

(e) habitually commits or attempts to commit or abets the commission of offences involving a breach of the peace, or

(f) He is so desperate and dangerous as to render his being at large without security hazardous to the community, the court refers the matter to the Chief Executive Member for reference to the Deputy Commissioner, who on such a reference being made to him, deals with the case in accordance with law.

In cases where in the opinion of the District Council Court, there is sufficient ground for proceeding under 144 of the Code of Criminal Procedure, 1898 and immediate prevention or speedy remedy is desirable, such court refers the matter to the Chief Executive Member for making a reference to the Deputy Commissioner who on such a reference being made to him, takes such action as he considers necessary under the said section. Whenever a court of the District Council is satisfied that a dispute is likely to cause a breach of the peace, concerning any land or water or the boundaries thereof, within the local limits of its jurisdiction, such court refers the matter to the Deputy Commissioner through the Chief Executive Member and the Deputy Commissioner, whenever such a reference is made to him, takes such action as he considers necessary under law. In criminal cases the Subordinate District Council Court or Additional Subordinate District Council Court may, subject to the provisions of the Constitution and of these Rules, pass any sentence authorised by any law for the time being in force.

An appeal lies to the District Council Court from the decision of a Subordinate District Council Court or an Additional Subordinate District Council Court in civil or criminal cases. Provided that such appeals are accompanied by a copy of the order appealed against and a clear statement of the grounds of appeal are filed within sixty days of the date of the order, excluding the time required for obtaining a copy of the order appealed against.

District Council Court:

Subject to the provisions of Rule 33 and 35, the District Council Court is a court of appeal in respect of all suits and cases triable by Subordinate District Council Courts, Additional Subordinate District Council Courts and Village Courts.

The Judicial Officer appointed to preside over the District Council Court, exercises original jurisdiction to try cases and suits and exercises such powers as defined in Chapter III of the Code of the Criminal Procedure, 1898, and such other powers conferred by or under these rules, as he is invested with by the Executive Member of the District Council with the approval of the Governor for the disposal of the case and suits arising within the territorial jurisdiction of the said court.

The District Council Court is subject to the provisions of these Rules, pass any order on appeal authorised by any law for the time being in force.

The District Council Court calls for and examines the record of any proceedings of a Subordinate District Council Court or an Additional Subordinate District Council Court or a Village Court and enhances, reduces, cancels or modifies any sentence or verdict passed by such court or demand the case for retrial.

The District Council Court has also certain powers of transfer. If it appears to the District Council Court ---

- (a) that a fair and impartial inquiry or trial cannot be had in any Village Court or Subordinate District Council Court or an Additional Subordinate District Council Court, or
- (b) that some questions of law, tribal or otherwise, of unusual difficulty that may likely arise; it may order-
  - (i) that any offence be enquired into or tried by another Village Court or Subordinate District Council Court or an Additional Subordinate District Council Court;
  - (ii) that any particular case or class of cases is transferred from one Village Court to another Village Court or from one Village Court to a Subordinate District Council Court or an Additional Subordinate District Council Court or from one Subordinate District Council Court.
  - (iii) that any particular case is transferred to and tries before.

When the District Council Court withdraws for trial before any case from any court other than the court of origin, it is in such trial, observance of the same procedure as that court

would have observed is adopted, if the case had not been so withdrawn. The District Council Court acts either on the report of the lower court or on the application of a party interested or on its own initiative.

When any person is convicted of an offence which the District Council Court is competent to try under these Rules, and no previous conviction is proved against the offender, and if it appears in that court, regard is shown to the age, character and antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour.

Provided that, where any first offender is convicted by a Subordinate District Council Court and the Court is of opinion that the powers conferred by this rule should be exercised, it records its opinion to that effect, and submit the proceedings to the District Council Court forwarding the accused or taking bail for his appearance before such Court which disposes of the case in manner provided by rule 35.

Certain provisions of the Code of Criminal Procedure applies mutatis mutandis in the case of sureties offered in pursuance of the provisions of this Rule. Where proceedings are submitted to the District Council Court under the above provision, such court thereupon passes such sentence or make such orders as it might have passed or made if the case had originally been heard by it and, if it thinks further inquiry or additional evidence on any point to be necessary, it makes such inquiry or takes such evidence itself or direct such inquiry or evidence to be made or taken. If the Court which convicted the offender, or a court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of this recognisance, it issues a warrant for his apprehension.

An offender when apprehended on any such warrant is brought before the Court issuing the warrant as soon as it be within a period of twenty four hours of apprehension excluding the time necessary for the journey from the place of apprehension to such court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case may pass sentence. A warrant for the apprehension of an offender under sub-rule (i) shall ordinarily be directed to a police officer, but the Court may, if its immediate execution is necessary direct it to any person or persons, and such person or persons shall execute the same.

The Court directing the release of an offender on probation shall be satisfied that the offender or his surety (if any) has fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions. In a criminal case the District Council or the Governor may direct an appeal to be presented to the District Council Court from any order of acquittal passed by a Village Court or a Subordinate District Council Court or an Additional Subordinate District Council Court. An appeal under sub-rule (i) shall be presented within ninety days of the date of order appealed against excluding the time needed for obtaining a copy of the order.

(THE GARO HILLS AUTONOMOUS DISTRICT ADMINISTRATION OF JUSTICE RULES, 1953).

(d) Conflicting Contexts:

We have already seen how the Garos pass judgement while settling disputes according to the customary laws and practices. The village authority finds difficulty in appealing to the higher courts of the District for a variety of reasons. Firstly, it is certainly more convenient to settle a case at the local level. Second, as I will try to show that there are clear contradictions between the Garos values as regards crime and their adjudication and the modern legal system imposed on the Garos. Here I have cited some of the examples of how the Garo customary law overrules the decisions of the Indian Penal Code.

(a) 'Might is right' was the order of the day in earlier days. However, the Christian doctrine replaced it by 'love thy neighbour'.

(b) Killing was not a crime for the Garos. As stated earlier they took pride in taking revenge. The largest number of heads was considered a matter of prestige and the person was known as 'mat grik' meaning warrior. However, such practices are no more practiced and have been abandoned.

(c) The word 'bu'a' literally means telling lies but an illiterate man uses it for just teasing anybody even an high ranking officer whom he may not really consider immoral but in the legal sense the word means cheating case and he could be fined for that.

(d) Generally villagers are illiterate. From the early days they are used to give thumb impression to legalise a document. Hence, they realise the gravity of thumb impression. If they are asked to give thumb impression they are scared to do so.

(e) Villagers are allowed to take from neighbour's field anything they want without telling him or her in the times of need. It is not a case of theft. But if an outsider collects anything without the knowledge of the owner, they resent it and demand fine and go for litigation. It is still a practice that Garos never lock their houses in the village and their granaries.

(f) In case of wachitata or sacrifice to the rain god prayer for more rain to come, the villagers catch anybody's cattle for sacrificing to the god. The owner can claim for the price but there is no criminal liability for such act.

(g) Catching a bridegroom is usually a practise among the Garos which is a case of kidnapping and forceful consummation in legal sense. However, the boy cannot sue in the court because permission is already taken from the parents of the boy by the chra of the girl.

(h) According to the A'kim law or law of succession, the heiress has to marry her father's nephew or her father's sister's son. What happens when all the daughters marry outside the father's clan?

(i) The Garo males used to marry many women. This sanction is obtained by rich males from the chra. However, the coming of Christianity totally prohibited polygamous marriages; with the result that Christian males started cohabiting with multiple wives without informing the church.

(j) When there is son in the family of his sister, a man can reserve that boy for his daughter till he grows up to marriageable age. This reservation could be called child marriage in the modern legal system but is perfectly in tune with the Garo customs.

(k) The Christians cannot divorce but they apply to court for a decree under the provision of Indian Divorce Act. This is not in derogation of the custom and a liability to pay 'dai' is still recognized by Christians.

(l) Maintenance cannot be claimed by a wife because under the customary law such payment was not tenable. In most cases the children are taken by the nearest relatives or the mother herself supports them because they are the inheritors of the properties of the parents.

(m) Garos do not make wills as such according to the customary law. But the parents used to tell the daughters or sons that they have given such and such plots of land in their names, verbally in contradiction to the modern jurisprudence.

(n) Clan exogamy is the rule and marriage is followed by every one by the Christians and non-Christians also. When there are cases like 'ma'dong' or incest i.e. intra-clan marriage, it creates resentment among the clan and the family members. If the couple are very much in love they go to the court and get married with some witnesses, very contrary to the customary sanction.

(o) Fighting or beating is a complicating factor in cases of divorce or in other disputes, but trials resulting from fighting alone are not very common. Beating itself is not rare, and if administered by the proper person it is entirely legal, and even is an integral part of a punishment for some other legal infraction. This is in contradiction to the modern jurisprudence.

(p) Damage by animals is one of the most frequent causes of disputes in the villages. During the harvesting season cattle are supposed to be kept tied up, and if one accidentally goes astray in the field, the owner is responsible for any damage it may do. Since it is impossible to make accurate estimate of the damage, this can lead to acrimonious controversies.

CHAPTER III;     ROLE OF FAMILY AND KINSHIP OVER LAWS

(1)     Inheritance and Succession

(11)    Marriage and Divorce.

(111)   Forfeiture and Adoption

(IV)    Theft, Rape and Murder.

In the villages under study, the distribution of the clans are as given in the genealogy. However, it may be added that Te'bronggre village shows through its household genealogies a predominance of A'gitok clan having Ágitok Koksep máchong. The spouse selection of the Ágitok Koksep is mostly in the Bolwari máchong. Rangsa is the next predominant máchong which has a large number of households. The Wa'rangre village has the predominance of the A'gitok clan mostly of Rangsa chatchi.

The Garos are matrilineal and female oriented. The Garo society is organized into matrilineal groups known as ma'chong meaning motherhood. Every ma'chong has common ancestress which gives a sense of attachment and a feeling of oneness to the members of a particular ma'chong where one belongs to. These ma'chongs are affiliated to the wider groups known as chatchi such as Sangma, Marak, Momin, Shira and Areng. They are the exogamous divisions or moiety classifications of the Garo society. Originally, there were only two groups namely Sangma and Marak. All other ma'chongs were grouped in these two; other ma'chongs have been added in course of time and they are the offshoots of Sangma and Marak groups. Ma'chong and chatchi structure of the Garo is uniform throughout the district and outside as well.

In the villages, there are principal groups which consist of a'king nokmas by both husband and wife lineages. These groups intermarry in the village and there are other groups

coming from outside who settle there after getting married to one of the village girls. There are cases where the villagers go against the norms of the Garo social system by marrying according to their own choice of other ma'chongs in the surroundings of the village. Such cases are becoming more in the villages particularly where population is thin and the villages are relatively inaccessible.

In the villages, two matrilineal sibs are the seats of a'king nokma and her husband nokma. The village is known through the principal lineage who is nokma and they call it like A'gitok a'king or Rangsa A'king. The members of that lineage have the same name and all are more or less closely related to each other and have special rights to live in and use the village land. Some households are more closely related than others and members of such households help each other than distantly related people. Such kinship unit where the groups provide one's most constant associates and companions is the household. Thus the household is the primary production and consumption unit, and one's daily activities from work in the fields to eating and sleeping, are most commonly carried on with other members of the same household (Burlings, R. 1963).

A Garo family consists of a father, a mother and daughters and sons. When a daughter gets married, she may stay for the initial some years with her parents till she has her own house. At that time, she bears children in the parents house. Sons always go out of the maternal house to the wife's house. Parents house becomes a joint family when the nokma gets married to the

nokkrom who comes to stay with them. Then there are two sets of couples in the house who remain there permanently. When the new couple bear children, the grand-parents take care of them and bring them up.

The other sisters called a'gate get married and establish their own families nearby or anywhere even in their husband's villages. The husbands are known as chawari who come to stay after the marriage, while brothers go away from the maternal home to their respective wife's house. There they become chawari in that household. In spite of the sons and daughters being staying away from the natal home, during emergency, help or problem the parents at the natal home are informed. Although a'gate establishes her own family, she always leans on the parents for everything. Therefore, the chawari has moral obligation to his parents-in-law, towards keeping them informed about his family affairs.

A household is called nok. Every member of a nok has his/her own seats, when they get together for a meeting. The status of the oldest uncle in the household is the highest. He has the highest seat or stool to sit upon. In all important meetings the seats for the participants is provided according to their position, seniority and rank. The grand uncle may or may not preside over a meeting but his presence is considered important while taking decisions, specially, on such acts of the accused which are likely to bring shame to the clan or mahari. It is the collective responsibility of the whole mahari to condemn or praise acts of the individual mahari.

At meetings everyone squats around the fire place but men always sit facing the main door. In such meetings the guilty has to speak in front of men and women, since, his honour is at stake hence one finds difficult to lie. Normally these kinds of meetings start in the late afternoon, so that the members can go back home early. Sometimes it goes on and on till the early morning, specially, in cases where a boy is asked to marry a girl and he cannot decide in a short time. In such meetings if the important decisions have to take place the host keeps on supplying beer brewed in the house for the purpose. If it is inter-clan meeting the accusing household has to hold the meeting in their house. Due to the services required at times of disputes and quarrels or any incident to happen in the mother's household, the brothers and sisters of the nokna always prefer to stay in the same village. This way the households of the mothers lineage increase in the village with coming of each generation.

The parents are the sole authority in controlling the children, even after they become adults. They are not allowed to choose their life partners without consulting the parents. In most of the cases, the father is the stumbling block in agreeing to the children's marriage proposal. In other important matters like buying property, wedding, education of children, festivals and ceremonies consultations are made. If there are grown up sons and daughters, they are also to be informed. Otherwise if any one of them is not informed or consulted, they feel neglected and ill feeling may crop up within the family members. Parents and old people in the family are respected as they are experienced in every important matter of the household.

The Garo family is matrilineal but it is a male dominated society. The kinsmen are very helpful in emergencies like birth, marriage, illness, death, festivals and ceremonies individual as well as collective. When a function is held in the house of a person, his/her kinsmen help by sending members of their family to work there. This is expected to be reciprocated. Maternal uncle and paternal uncle are the most helpful persons in need. All the kinsmen of a person are expected to help<sup>if</sup> an emergency arises. Help may also come from friends and other relatives or neighbours. Marital bonds among the kinsmen are crucial factors. If sons and daughters get married against the wishes of the kinsmen it creates tension among the relatives and the principle of reciprocity is put into serious jeopardy. Selfishness of a person can cause quarrels between relatives. Everyone is expected to be generous in dealing with kinsmen otherwise people start gossipings about such persons and avoid visiting households of such persons. The actions of past generation too are not ignored.

(i) Inheritance and Succession: The inheritance is through the female line i.e. from mother to daughter. Daughters have the first claim to inherit the property of the family or of ancestors. Mother occupies an enviable position although her husband wields undisputed managerial authority. She is the ultimate owner of the family's ancestral property. She is also the link between the father and the children. Day to day life of children is keenly observed by the mother so that she is able to make up her mind as to whom to name as her successor in future. Before her death she and her husband choose the nokna who becomes nokkrom after her death.

A right to inherit property is vested only in one daughter. Where a woman has only one daughter, she automatically becomes the heiress daughter who is known as nokna. After the death of her mother she takes over the charge of the family and she is known as nokkrom. But where a woman has more than one daughter, a choice has to be made for nokna. Ordinarily, the choice falls on the youngest but there is no such binding. The choice really depends upon the parents, but in a case of disagreement between them which of course is rare, the mother's choice prevails. There are cases where the eldest daughter have inherited the property left by her mother (High Court S.A. No.77/57). This however, is not an absolute rule and if the parents choose some other daughter as the nokna, then that choice will prevail. The nokna daughter does not acquire interest in the mother's property, simply because she has been chosen as a nokna. Her right to inherit arises only after the death of her mother as has been held by the court in such a case (Miscellaneous Appeal No.1 of 1982). The nokkrom daughter does not acquire the right to property by birth. She is selected by the parents on the basis of their observations and interaction with her over a long period of time and during that period they may develop confidence about her. However she succeeds to the property only after the death of her mother. If a woman dies and is survived by her husband and daughters of whom none was selected as nokna, the successor selected by her mahari becomes the heiress of the deceased wife.

Case No.1: Generally, youngest daughter is selected as the nokna, but this is not an absolute sanction. A High Court Case (S.A.No.77/57) fought around 1928 was regarding heiress. Chedi Sangma a Christian Garo woman had two daughters Dimse and Bidyat through Niron.

After the death of Niron, Chedi married again and had a son from him. Following this she died and in accordance to Garo customary law Bidyat the youngest daughter, inherited the properties. On the other hand Dimsa was selected by her mahari and she was married to her step father. That is Dimsa stepped in her mother's shoe, she was nominated by the mahari and her daughter Donje becomes the full owner of the property.

When a woman dies and is survived by her daughter nokna, the property vests in her and not in the successor wife even though she may be provided by the relatives of the deceased wife. The successor wife may have a private land to the property but she cannot disposes the nokna of the deceased wife. If the successor wife had property of her own at the time of coming as the widower's wife, then such property would continue to be hers and her daughter inherits and not the daughter of the first wife. If the successor wife had no daughter on her death, then if she be of first wife's clan, the property also would vest in first wife's daughter, but if she be of different clan, it would revert to her female relatives appointed by members of that clan.

Case No.2- A cultivable land belonged to a Koksi sub-clan woman who died and was survived by a daughter. Koksi chra and mahari gave a second wife to the widower and the surviving daughter also lived with them. In course of time, she also got married and had a daughter and afterwards that Koksi woman died. After the death of the second wife, the daughter claimed the land. It was held that the second wife had life estate only and that after her death, the property was restored back to the heir of the first wife (High Court, S.A.No.89/56).

As ownership to property is vested on a woman, the husband is only a guardian of the household and manager of his wife's property and as such he cannot transfer, dispose of or encumber the family property except with the consent of his wife or her nokna. If his wife be imbecile or invalid and they have no daughter selected as nokna, then he ought to get assent from other daughters. If he has no other daughters too, then he ought to get assent of his wife's chra and máhari (A.I.R. 1967 A & N 22).

Case No.3- A man of Snal máchong was a nokkrom and his wife was from Napak máchong and was also a nokna. They had no surviving daughter to inherit their property. The wife died and was survived by her three sisters. One of the three sisters became the wife of the nokkrom after the death of nokna. The other two sisters claimed equal share of the property of the deceased nokna in an action against the daughters of the second wife. It has been decided that the second wife was to become the heiress of the deceased according to custom and that the entire estate vested in her to the exclusion of the other two sisters. It was also held that the words "any other law for the time being in force" in Section 29(2) of the Indian Succession Act, should be read as saving of a customary law of the Garos (54 C.W.N. 2DR.14). It was not disputed by the parties that they were governed by the Garo customary law prevalent amongst the Garo and were not governed by the provisions of the Indian Succession Act, 1925, in the matter of inheritance (ibid).

Case No.4- A daughter got married to a man with the consent of her chra and mahari and also her parents but he did not belong to her father's clan. Since she was the only daughter to inherit the property and the chra and mahari had given consent to their marriage. Nothing stood on their way of becoming nokna and nokkrom. According to the customary law, the marriage was legal and did not stand in the way of inheritance of the nokmaship also (C.R.No.51 H of 1952).

Case No.5- The Garo law does not provide for inheritance on the basis of performing the last rites nor on the ground of payment of land revenue. Further, a person admittedly married to a member of different clan had no right to succeed to the property left by elder sister and her husband. A woman married a man outside her father's clan and claimed inheritance to the property of her deceased sister on the basis of possession as well as on the ground of payment of land revenues and the performance of the last rites of her brother-in-law who was dead, the Garo custom does not provide for inheritance in such instances (C.R.No.133 (H) of 1952). It is customary for the chra to provide a wife to a man after death of the first wife. The man marries a second wife after the death of his first wife, and the girl is minor and chooses to live with her parents separately from her husband, even then she does not forfeit the status of a wife and as such she has the right to succeed to the property of the first wife of her husband.

At the death of her husband, the sister of the first wife took the possession of the land and the property, which the second wife objected who was represented by a legal guardian. The court

found that the second wife though not living with her husband did not forfeit the status of a wife and as such had right to succeed to the property which the first wife left. The sister had apparently no legal title to the property claimed. Therefore, the second wife retained the position of the wife of her husband and as such the right to succeed to her husband remained in tact ( C.R.No. *ibid*).

Case No.6- A person died in 1949, his first wife having already predeceased him some fifteen years ago. The late wife had a sister who was also dead leaving a daughter who was married. After the death of first wife, another woman came to live with the husband as second wife. He remarried that woman who was a widow also. This second wife had a daughter who was separated from her mother when she married again. This daughter claimed as reversionary heir of her mother and a right to inherit her step-father's property. But the claim was not justified according to the Garo law of inheritance. The daughter and her husband of the second wife claimed that they were the reversionary heirs of their mother or mother-in-law. They also claimed that according to the Garo custom if a widow remarries and goes to the house of her husband and takes her daughter with her, the daughter succeeds to the estate of her step-father after the death of her mother. However, in this matter, according to the report submitted the authorities was that the daughter was separated from her mother before her mother came to live as second wife and therefore, the daughter and her husband had no right to the properties unless a right was given to them by a joint decision of the chra and mahari, after the death of her mother. The daughter and her husband was separated from her mother because they

stayed on in East Pakistan (now Bangladesh) while her mother came to India and stayed as second wife. The mother so long she was alive, can enjoy the right to property of her husband who was deceased but not the daughter and her husband. According to the rules for the Administration of Justice and Police in the Garo Hills district of 1937, Rule 31 the daughter and her husband were not indigenous inhabitants of Garo Hills district and this rule had no application so far the petitioners were concerned (C.R.No.42(H) of 1950).

The Garo law does not permit any daughter to succeed and inherit the property of her mother. She has to stay with the parents and claim the property in due course. It was not known in this case whether the second wife belonged to the same clan as the first wife. As the property belonged to the first wife, the second wife and her daughter had no right to claim on that property so long as she lived, but the property returned to the clan of the first wife on her death. The practice prevalent among the Garo is that when a daughter lives separately from her parents after her marriage, she cannot come back and claim inheritance of her mother's property unless she is appointed as an heiress by her chra and mahari and brought back to her parent's house.

However, when a daughter is nominated as an heiress, or is the sole heiress of her mother, but lives separately from her parents after her marriage, either voluntarily or under certain compelling circumstances, although her succession is due on the death of her mother, until and unless she is formally released from heirship by the mahari and chra, her right of inheritance

remains in tact. But when she commits adultery and elopes with another man, she forfeits this right in which case the nokkrom is given a substitute wife by her chra and mahari from one of her relatives, preferably her younger sister, because under such circumstances sororal marriage is practised by the Garo.

A Garo woman's right of inheritance is established only after her marriage with the nokkrom, the principle underlying the rule of succession and inheritance being that the daughter succeeds her father. That is why, after her marriage the nokna, is called as an heiress. She cannot be driven out of the house by her parents arbitrarily without the consent of the chra and mahari. As we have already seen that the mother is the sole authority for selecting the nokna, or her successor and the father is the sole authority for selecting the nokkrom or his successor. After the marriage of the nokna and the nokkrom, the mahari and the chra are the sole authority for deciding the family disputes and not the parents.

Case No.7- When the first wife died, the second wife is always given to the widower by the chra and mahari. There were two minor daughters out of this second marriage. The second wife deserted her husband and eloped with another man leaving the daughters with him. In the meantime, the daughter of the first wife took the chance and came to stay with her father. That time her father died and the daughter arranged to bury his bones in his house. After the death of her father, the daughter applied for the mutation in place of father's name for the landed property which was opposed by the two minor daughters. It is held that so far as these minor daughters were concerned, there was no reason

why they should be deprived of the inheritance because of the conduct of their mother. Since the second wife deserted her husband and eloped with another man, she totally disqualified herself for having any share in the inheritance of her deceased husband's property (C.R.No.35 (H) of 1954).

### Succession

The Garo law of inheritance is that once property is in the name of a mother it cannot pass out of it. A woman's children are all of her ma'chong and therefore it might at first appear that her son would satisfy the rule, but he must marry woman of another clan and his children would be of their mother's sect, so that, if he inherited his mother's property, it would pass on to her ma'chong in the second generation. Then daughter must inherit, and her daughter after her, or failing issue, another woman of the clan appointed by the chra and mahari.

Depending on the book, "The Garos" written by Playfair the Calcutta High Court decided that the property once acquired by a man after his marriage would be deemed as the property of his wife. Even if a title to any property be held in his name, the ownership would be that of his wife. On his death, that title would pass on to his widow or his daughter. It is undisputed that upon the death of husband the property passed on to his widow. In the event of his wife's death, daughters or sisters as the case may be, inherit the property since they are adjudged as the nearest maternal woman relative who will be appointed by the chra and mahari in establishing the title to the

disputed property (79 C.L.J., 121. ILR (1954). Cal 552)

No Garo man may possess property apart from his wife unless he has acquired it by his own exertion before his marriage and it is independent of his connection with his wife. In a dispute, a wife had filed a petition against her husband, alleging that he had deserted her and claimed maintenance. She prayed for return of the property which the husband had taken away from the matrimonial home. The lower court made a maintenance order and ordered the return of property. A Garo husband has no exclusive right over the property jointly earned with his wife, and as such when he leaves the house, he cannot take it with him without wife's permission. If he does so, it amounts to theft according to the Garo custom (Criminal Revision No.1 of 1968).

Case No.8 - A wife committed adultery and left her husband. They were Christians. According to the custom once a husband is deserted by a wife, she should be divorced. A non-Christian husband would be offered another wife by the chra and mahari from the first wife's clan. In this matter the husband did not divorce the wife who deserted him, and continued to stay in the house and enjoyed the rights of property. In this case, their daughter claimed to inherit the property left by her mother. It is held that the customary law allows the husband to enjoy the right of property so long he is alive. The authors like Playfair and Baldwin supported this custom. When the husband died, the property returned to the wife's clan and in this case was inherited by the claimant daughter. Since, the wife deserted her husband thus she forfeited the right of inheritance to their

property (Misc. Appeal No. 36 of 1936).

Case No. 9 - A woman of Mangsang clan and a man of Songsak clan had their property but the wife died leaving a daughter behind. The Mangsang clan therefore released the widower from a'kim as they could not supply another woman. The widower retained the property and remarried a second wife of his choice and lived with her. On the death of the widower, the daughter of the first wife sued the second wife for the property. It was held that the daughter was entitled to succeed her dead mother and thus inherited the property of her mother. The second wife had no right at all according to the customary law whom the widower married according to his choice (C.R.No. 5 (H) of 1958).

Case No. 10 - This is a case between a father and his daughter regarding the property. The father had admitted that he enjoyed the property and also encashed upon it, but while reviewing the cases over land, it was found he sold everything except his utensils. According to the customary law, he is bound to return the properties to the petitioner. But the trial court had decided that there was a dispute as to the liability of the father to return the properties. It was held that rule 31 of the Rules framed for the Garo Hills district for the administration of Justice was mandatory and must be observed and that its non-observance makes further proceedings liable to set aside, subject to equities between the parties. So ultimately, the case was ordered to be retried and disposed of in accordance with law (ILR. 5 Assam 221).

Case No. 11 - This is another case regarding the property and money which was on dispute. The petitioner was dissatisfied with the order of the trial court regarding the property left by a woman. This matter was referred to arbitration by the village council as provided under the rule 31 of the Rules for the Administration of Justice and Police in the Garo Hills District (1937). It shows that when the dispute cannot be decided according to the customary law then the district authorities proceed with the Rules framed for all the districts in the tribal areas. (G.R.No.8 (H) of 1952 ).

Succession to Nokmaship:

Under the Garo customary law of inheritance of the a'king land passes from daughter to daughter of the nokma not only for a limited period but from generation to generation. In case no nokma's daughter is available, it will pass to the nearest daughter of nokma's family circle. It is said that nokma's family is just like a royal family and appointment of a nokma, is just like a coronation of a king and queen. When a nokma and her husband are once installed under the Garo customary law, they cannot be removed from that status. "A woman can be appointed a nokma without a husband if she is entitled to the nokmaship, but a man without wife cannot be appointed nokma and it means that the real power of the a'king land and other properties is to a woman. A man by virtue of marriage with a woman nokma can be a nokma and so long he is a husband of a woman nokma, he can be the head of the clan people or a custodian of the a'king on behalf of his wife and nokma's clan people."



The responsibility of looking after the a'king land lies with nokma and the members of her clan. When the clan people find that a nokma is not managing the a'king property properly, they can advise the nokma that he/she should carry out the suggestions given by the clan people. In case the nokma fails, the clan people can bring the matter to the notice of the family council. When the council finds that two contestants are equally eligible for succession to the nokmaship, then he will direct the clan people to elect the contestants by voting for the nokmaship. Only in such a case nokma is appointed by voting of clan people. A group of interested clan people cannot remove a nokma and select another in his or her place under the Garo customary law.

According to customary law for the succession of nokmaship the parents have to select a successor for the a'king land. In a case a mother had died, the father was still living, and they had not selected anyone to succeed them. After sometime the daughter had applied for succession of nokmaship after her father. When the father was still alive, no decision in the matter could be taken. If there was any dispute when the issue of succession open up the appropriate authority may be moved and obtain a decision. The aggrieved party can move from the lower court to higher court in revision where the question of the customary laws governing marriage, divorce and succession of the parties are decided.

However, in this case the trial court made a mistake by cancelling the name of the petitioner from the geneological table. Neither the preparation of the Geneological Table nor the subsequent additions, alterations or cancellation can affect the customary law of the people belonging to the Garo community in matters relating to marriage, divorce and succession (C.R.No.56 (H) of 1949).

The customary law provides that a Garo husband being only the guardian and manager of his wife's property cannot dispose of the property without the explicit assent of the mother of the house.

Case No.12 - A nokma incurred some debts and could not repay the debts. One person cleared the debts of nokma and he got the a'king land transferred temporarily in his favour by nokma. The one who had cleared the loan had two wives. From one of his wives he had one daughter. Both of his wives died. He married again. The nokma had two wives and the first wife had one daughter while the other one did not have any issue. The transfer of a'king land by nokma to another person was only conditional and not absolute. As such, it did not confer any title on that person and on the defendants. The a'king land or any part of the a'king could not be sold out without the consent of the chra and mahari and at the time of transfer of a'king in question a condition was laid down on the petitioners attaining majority the a'king would revert to them. The third wife who was defendant in this case did not belong to the first wife's clan and she was not supplied as wife to that person by her chra and mahari, and

therefore she could not be the nokma of the a'king and since the deed was secretly registered giving their names as nokmas of that a'king they could not legally claim the nokmaship under the customary law. Being a nokma, he could not pay his debts of Rs.766-8-0 which he borrowed from other villagers. While this person cleared this debts, he wanted the a'king in lieu of money. The wives and the chra and the mahari objected to giving the a'king. In case if the a'king was to be given then the man's name had to be added in joint nokmaship. When the nokma failed to pay even half of the money, the Deputy Commissioner ordered that a'king be transferred in the name of the person who had cleared the debt. Therefore, the transfer of land alleged to have been made by the nokma without the consent of the wives and clan members which had been enforced by the executive orders of the Deputy Commissioner. However, the title to a'king could not be passed but only the nokmaship the managerial rights of the nokma and as husband of his wife might have passed.

As soon as the husband died in 1963, the wife put forth her claim for the a'king and the nokmaship. Under the circumstances, the petitioner is the legal representative of her mother and the other party as nokmas should be removed in as much as they were appointed nokmas on the basis that the title in the a'king vested in her husband. As it has been held that the title was vested in the name of the husband, the names of the defendants cannot stand in the register of nokmas in respect of the a'king. It is directed that the clan of the first wife of the nokma should select the nokma of that a'king in accordance with the

customary law (A.I.R. 1967 A & N 22).

The Garo law does not allow two or more noknas or nokkroms in the family. Therefore, the name of a second wife is not allowed to be mutated in the map of an a'king and in the geneological table as long as the mother of the house and her daughter nokna and nokkrom are alive. A'king always belongs to the wife to whom the nokkrom is married to, who becomes nokma by virtue of his marriage to her. After becoming nokma, if he marries another wife, this second wife has no right and the nokma cannot mutate her name to the a'king.

Case No.13 - Mother and daughter complained that her husband nokma wants to transfer a portion of their a'king land to his second wife. The nokma husband wanted not to transfer any part of the a'king but to get mutated her name along with his name and the nokna and nokkrom also. When the a'king belonged to the wife nokma, the husband had no right to get the second wife's name mutated and he was warned not to do so.

In an appeal to the Deputy Commissioner, the court has ordered for the parties to appear and also against the wishes of the clan members, the nokma had taken the second wife. The clan members were apprehensive that nokma might attempt to illegally make his second wife or her daughters the successors of the a'king and wanted that the nokma should be dismissed. However, so long as the nokma was alive, he could not be removed from the nokmaship but on his death, the nokna and nokkrom would succeed the mother and the father. Under no circumstances, either the second wife or

her offsprings can succeed in preference to the selected nokna and nokkrom or any other claimant with a superior claim (No.327 Misc.of 1924-25).

Case No.14 - Nokna became the nokma after the death of her mother nokma. Her father nokma had five wives of which the third wife was his favourite one. The nokma wanted to change the Geneological Table of that a'king and had cancelled the name of his daughter whose name was already registered in the Table. The case came to the trial court, Trial Court returned it to the village council to decide it according to the customary law. In that the nokma and the chra and mahari gave consent to the marriage of the daughter to a man who did not belong to her father's clan. It is undisputed fact that the a'king belonged to the nokma wife of the nokma husband and the daughter being selected as nokna of the family, she had the best claim to become a nokma after her mother. The only claim is that she married to a man who did not belong to her father's clan but that marriage was already accepted by the clan members. Thus, the man became a nokkrom by virtue of his marriage to a nokna. They were married for more than six years at that time, and during that period, nobody had made any complaint in court or in the family to disinherit them from the nokmaship. Therefore, the court had directed that the Geneological Table be corrected accordingly substituting the name of the nokna and nokkrom as heirs and owners of the a'king in question. Under the principle of the law, the nokna could not be made to marry away from the family

though her choice was a non-clan member of her father and they had to accept them as nokna and nokkrom and by courts also (Rev. case No. 33 AC of 1947-48).

A nokna does not necessarily become a nokma. Only when a nokna is in the nokma family, that he can ultimately become nokma but a nokma under no circumstances can be a nokna. (Subordinate D.C.C. No. 18 of 1980).

Case No. 15 - According to the customary law, a second wife was supplied to the nokma who belonged to the same clan as his first wife and the nokma had accepted her as his wife. The nokma wanted his second wife's name should be inserted in the a'king records in the Geneological Table. The objection raised by his daughter from first wife and her husband on the ground that the second wife was not selected by the chra and mahari but she was kept as a mistress by the nokma of his own accord and as such, the second wife could not succeed the first wife in respect of a'king.

This case came first to the court of Deputy Commissioner in Tura who referred the parties to a village meeting. The village meeting submitted an award on the basis of which a decree was passed in favour of nokma and his second wife but on objection being taken before the Deputy Commissioner on behalf of one of the arbitrators alleging that all was not fair with the arbitration award, the Deputy Commissioner set aside that award and sought for fresh village meeting but the parties refused to accept the matter being referred to another village meeting and petitioned that the case be decided on evidence. They adduced evidence in the case.

The Deputy Commissioner had carefully analysed the points for decision as follows: whether the second wife belonged to the same clan as the first wife of nokma; whether they have been duly married according to the custom with the consent of the chra and mahari; whether the nokma refused to marry the woman offered to him by the clan members after the death of his first wife; whether the nokma and his second wife voluntarily relinquished their claims to their a'king in favour of the opposite party and lastly, the merit of the relative claims of son-in-law and his daughter vis-a-vis the claims of nokma and his second wife.

The points that required decision mainly were whether the second wife has been rightly accepted as a wife of the nokma and with the consent of the clan members. There was another allegation against the nokma that he surrendered the nokmaship to the son-in-law, but on that point the Deputy Commissioner found that it was against the son-in-law. Regarding the marriage to second wife, it was found that they were married according to the Garo custom and she belonged to the same clan of the first wife. Therefore the Deputy Commissioner disposed of the case with the order that the marriage was valid. On the basis of this point order was passed for including of second wife's name in the Geneological Table as nokma with respect to the a'king (Civil Revision No.73(H) of 1953).

Case No.16 - In a civil suit before the Subordinate District Council, Court the appeal was for declaration of the rightful owners of the suit properties as nokna and nokkrom. The petitioner claimed that she was the nokna and the husband claimed

the nokmaship in respect of the a'king, left by the father of the girl. The petitioner claimed permanent injunction against the opposite party besides other ancilliary claims in respect of the suit properties. Admittedly the value of the property was well over lakhs of rupees. However, the trial court took a lot of time in deciding the case. The trial court rightly did not dismiss the suit following the procedure laid down under the code of Civil Procedure.

The observation made out of this case as "obiter" and made only for the purpose of disposal of the application. It was advised that the lower courts should consider the merits of the case independantly and should determine the same in accordance with the nature of the evidence adduced in court after considering their effects. Also the trial court took into consideration the effect of the amendments made in the Garo Hills Autonomous District (Social Customs and Usages) Validating Act, 1958 with particular reference to Section 11 and a bench of the court on the point (Civil Revision No. 19(H) of 1976.

Case No. 17 - According to the Garo customary law, the husband nokma can be removed from the nokmaship if he fails in discharging his duties of the a'king, the family and the clan. In this case it was alleged that the nokma did not look after the ailing wife when she was very sick. However, the parents already selected the nokna and nokkrom to succeed them after their death. In this case, the nokkrom had filed a petition against the father-in-law who did not take care of the mother-in-law.

After the death of the wife, the nokma married another wife who was from the same clan as first wife. Even before the marriage to the second wife, the chra and mahari of the first wife had released him from the a'kim and the chra and mahari did not want him to continue as nokma. The case was that the nokma had already been released from a'kim and he had no right to continue as a nokma. So the Deputy Commissioner in his court passed an order in favour of the son-in-law and his daughter declaring them to be nokmas. With this decision that the petitioner has been legitimately released from the a'kim and he has lost the right to inherit his wife's a'king in the matter of nokmaship. (I.L.R. 5 Assam 105).

Case No.18 - A Garo man can marry several times depending upon his economic status. In a case, the first nokma of an a'king had two wives. The name of his first wife and his name were entered in the geneological table which was recognized by the District Council to be nokmas in respect of that a'king. After some years, the nokma and his second wife died leaving behind a daughter by the second wife. The first wife also had a daughter who was the petitioner in this case.

After the death of the nokma, the first wife married one of the members of her husband's clan who was recognized by her clan and he became the nokma of that a'king. The nokma took the two daughters along with the old wife and they became as co-wives to the new nokma. The old wife wanted to retire from nokmaship due to her old age and nominated her **daughter** to be the nokma in her

place and accordingly applied in the District Council to be so recognized, but the daughter of second wife (who had already died) opposed to this, saying that she was the preferential heir to the nokmaship. So the District Council authorities decided in favour of the opponent but again it had been opposed by the other wife who had been directed by the court that it should be filed as a regular suit. It was contended that authority of Revenue, could not have decided a matter which related to proprietary rights of an individual. In this petition, the third wife claimed that she had a better claim to succeed to the nokmaship in her mother's place as that time her mother also had died. Again, this decision also had been opposed by the second wife. Finally, the appellate court had made the decision that both the co-wives of the nokma were competent to be nokmas jointly and the second wife would be the first nokma and the third wife would take the second place along with their common husband nokma. Again this decision also had been challenged by the third wife being given the second position contending that it was against the Garo custom to have two nokmas in place of one outgoing nokma which meant her mother in this case. The court had cited that there existed already two nokmas in one a'king somewhere in the district and both the wives of the nokma have entered in the Geneological Table. So with this example, the Court again ordered the petitioners to accept the selection of nokma by vote of the chra and mahari. The result of voting went in favour of the second wife who secured forty votes as against twelve votes secured by the respondent. The validity of this election had not been challenged but the testimony of the husband was in the interest of both the parties

as well as of chra and mahari, that both the wives be given the status of nokmas, priority being given to the senior wife compared to the other. The husband nokma gave the statement as follows:

"For the sake of amity and welfare of the mahari both the wives names should be entered as nokmas jointly. Both of them have the same father and I am the husband of both, so the a'king land should be held jointly by them. These two will agree to this but it is the respective chras and chatchis who create this trouble."

Accordingly the names of both the contending parties were ordered to be entered in the Geneological Table of nokmas kept by the District Council for the best interest of the parties (I.L.R. 11, Assam 387).

#### (11) Marriage and Divorce:

According to the Garo Customary Law all the marriages are governed by the a'kim law. It is a legal binding that a man and a wife is not free to remarry without the consent of the two lineages concerned. We have already seen law of inheritance and succession by which the law of marriage is regularized for the right of properties. This a'kim law is more strictly followed for the succession of nokmas in respect of a'king which is a prestigious and responsible position among the Garos. I have selected some interesting cases described below, which mainly emphasize the land and women relation. Amongst Garos the three most vital things are land, wealth and women. And the Garo society controls all the three things through the assertion of

power by the kin. The kin elders be it mahari ; chra or chatchi have to give consent to any matrimonial alliance, even if it be for providing a wife to the widower. The utility of this power and authority of the kin council is felt specially for the cases of nokkrom.

Case No.19 - A woman was married to a man from whom she had two daughters. After the death of her husband, the wife remarried another man and one son was born to her. After her death, the youngest daughter was to inherit the property left by her mother. In the meantime, the youngest daughter was given for adoption to her aunt. The eldest daughter, according to custom, had to marry her step father if she wanted to succeed to her mother's property. Thus the step father was married to his step daughter which the clan members had selected to inherit the properties left by her mother. Due to her marriage to her step father, she inherited all the properties and after her death, her daughter would inherit the property by turn. Here we see that the eldest daughter was nominated by her chra and mahari to succeed her mother's property to become the full owner of the property (I.L.R.11 Assam.387).

Case No.20 - According to the Garo law, a nephew has to marry his maternal uncle's daughter; so that the property would remain between the two ma'chongs. In this case the mother had challenged the son and his father-in-law for not marrying her son to her brother's daughter. Her son had married according to the Indian Christian Marriage Act (Act XII of 1872) and there was nothing wrong in the process of the marriage to make it invalid.

Her son should have married his uncle's daughter according to the customary law. But he did not and he got married to someone's daughter which was not the best selection for him. She alleged that the father of that girl seduced her son to marry and it was not according to law. This marriage was against the wishes of the mother and against the financial interest of her son for which the mother went to court (C.R.No.93 (H) of 1952).

On the death of his wife the Garo man is provided with another girl for marriage from the deceased wife's clan. However, this process takes some time. Some men cannot wait till the clan members are able to provide him with another wife. Here, in a case cited where the man could not wait for the clan members to provide him with a wife.

Case No.21 - A man married another woman after the death of his first wife. He claimed that the clan members permitted him to marry outside the clan since they could not provide another woman. In view of this permission, he became entitled to the property left by his first wife. However, this claim was resisted by his daughter by first wife and her husband claiming that the petitioner had not been released from the a'kim and had not acquired any right to the property left by his wife. Under the customary law, this property should devolve on the daughter since she was still alive.

In the trial court, the witnesses could not give any satisfactory evidence as to who permitted him to marry outside the clan of his first wife, nor he could state when the permission

was given to him. So the witnesses could not produce sufficient grounds for his claim. His allegation of releasing him from a'kim by competent persons was not regarded as proved. It was found that the petitioner was carrying on an affair with another woman, even during the life time of the deceased wife and he did not wait for a reasonable time for the clan members of his wife to provide another wife. ( C.R.No.51(H) of 1953).

Case No.21a- Another sanctioned form of marriage among the Garo is by elopement. Any couple who want to go on their own way without getting the consent of the parents and the clan, run away from the house and stay together. After a few months, they come back and face the relatives to get the elopement as legal marriage.

In matter of elopements, disputes arise against the couple and the parents of both boy and girl if that elopement is not permitted in the society. A couple ran away from their respective houses against the custom and the wishes of the parents and the members of a particular clan. When they ran away for the first time, the trial court executed an order with a written agreement that they have to pay the mahari dai of Rs.500/- each if they elope again against the wishes of the mahari and relatives. This matter was brought to the Subordinate District Council Court after the Village Court passed an order to pay a fine of Rs.500/- as asked by the relatives. The mahari and the parents were against the elopment because it was ma'dong or incest which is a taboo in the society. A man cannot marry a woman of the same clan even if she is a distant relative who might have come

from other side of the district. Such type of marriage cannot be solemnised by any authority.

In the trial court, the case had been examined according to the modern jurisprudence, but the customary law does not allow such relatives to marry. The written document for payment of mahari dai of Rs.500/- could not be found in the Village Court. For want of written agreement the appeal had been set aside and ordered for denovo trial of the suit. However, the Village Court ordered that since this is a social crime, they should be punished with dai according to law (Subordinate District Council Court L.C.No. 72/1982).

The practice of substitution of a wife/husband is common among the Garo in case either dies.

(a) On'songa in the literary sense is the substitute or replacement of the deceased spouses. Earlier we have seen many second wives married by the husbands and second husbands by the wives. In most cases the husband if married to an old woman, he is promised to be given another young wife as jikgite or concubine. Only on this promise the husbands agree to marry an old woman and is allowed to cohabit both the wives. The old woman has to agree to this otherwise she will be rejected by the young husband.

(b) On'chapa means the minor or younger girl to be given in marriage. These girls have nothing to say or ask why they have been given to the old man in marriage. This has always been done with the permission of the older wife and the young girls have no say in this settlements.

The substitution of spouses is done to maintain a continuity in the marriage alliance among the two lineages called a'kim kanga. Sometimes there are cases when the husbands do not agree to the substitution if the spouse given to him is not suitable to save his and his lineage's prestige.

Case No.22 - After the death of his wife a husband was given *substitute of* undesirable character, and she already had two illegitimate children. No man would like to take such girls as substitute wives. The man disapproved the girls as unsuitable. Law provides that a person suitable to the surviving spouse should be provided as substitute. It is alleged that there are some clans who by some trickstry offer unsuitable persons as substitute to the widow or widower so that they may be able to release the person from the a'kim bond.

The Garo custom had been challenged stating that to avoid a blame, the mahari of wife or husband tries to find out any unsuitable person as the substitute to save their prestige. Sometimes a beautiful young girl is given to an old and ugly man who is of her grand-father's age (Misc. Case No.14 of 1974). In the above mentioned case the mahari did not offer any girl, so the man went away and stayed with a girl of his choice. They stayed as husband and wife for many years but the mahari did not find out about the marriage. Their silence was considered an acceptance to their living together. Their silence may also be owing to the fact that the girl belonged to the clan of his first wife. On account of these factors he was not released from a'kim. So he maintained her property and his wife legally inherited

the property as there were no children of their own by the first marriage.

Divorce:

Most of the divorce cases are on the grounds of adultery indulged in by either of the spouses. Here is the typical Garo divorce case in village.

Case No.23 - A woman was an heiress and married to an heir but he committed adultery with an unmarried woman who became pregnant. In due course, the trial came up, it was decided that the woman was guilty of infringing upon the rights of a married woman. Her relatives had asked to pay dai of Rs.30/- to the married woman's relatives and both were beaten by their older relatives at the time of trial.

After this judgement the husband started retaliating. He started abusing his wife and beating her. His behaviour came to the notice of village authorities. He was evicted and found guilty for beating his wife. Therefore his relatives had to pay Rs.30/- as dai for abusing his wife. On the otherhand, the wife's relatives started litigation, the wife's relatives had to pay dai to her husband's relatives Rs.60/- who had initiated divorce and broken the a'kim bond between the two ma'chongs. Later she divorced him with the approval of her family members and did not get beating this time in the trial as they came to know the fact of the divorce. The husband did not receive any property of the household. The woman married again a younger man, and planned to adopt a young girl for her husband so that he may continue the

a'kim relationship (Burling, R.1963, p.258-259).

Case No.24 - The Garo marriage is performed mainly by do'sia when the priest kills two fowls one male and one female by which he strikes the couple. In this case, the couple was married by do'sia and lived together for three years and got a child out of this marriage. After three years, the husband deserted the wife and the child and took away some movable and immovable properties which belonged to his wife according to custom. Then he eloped with a girl after taking all the claimed property.

The wife wanted to reconcile and desired the husband to come back and return all the properties taken by him. But the husband alleged that he was forced to leave the house as he was driven out by his father-in-law. The father-in-law used to speak ill of his son-in-law publicly and disapproved of his staying with his daughter and child. He had encouraged his daughter to be cruel on him and disallowed her to serve him food.

In the Village Council, the husband reported the matter and arranged for adjudication by the elders and the nokma. In the meeting, the wife had admitted that her father had driven him out of the house. However, in the trial court the contention was that the witnesses can not support the claims made by a woman. The land which was taken by her husband, had been mortgaged by the husband's mother and still in the possession of the mortgager. Under the circumstances, the matter was dismissed owing to the shortage of evidence.

According to the customary law, a widow or divorcee is allowed to take another husband, if the husband's clan members do provide her another man. If not, then she is free to choose from any other clan. But in Christian Marriage, the wife has to first divorce her husband and then marry another (Misc. Case No.14 of 1983).

The essential element of desertion and adultery have to be proved by cogent and reliable evidences. Generally no direct evidence is available to establish the offence. Therefore, the trial court has to depend on the 'indirect or circumstantial' evidences. In this case, where it was proved beyond reasonable doubt that the husband continuously lived for about three years with another woman in the same house openly as husband and wife. This was considered enough evidence on the facts and circumstances of the matter, to establish the matrimonial offence of adultery. In spite of receipt of summons of the suit, the husband did not dare to contest the allegations brought against them. So the petition was successfully proved the case and wife was entitled to a decree for dissolution of her marriage (T.S.No.6 of 1974).

Case No.25 - In another case, a couple got married according to the Christian rites which lasted only for six months because the wife deserted her husband and subsequently lived with another man as his mistress. She thereby committed adultery with him and the petitioner remained completely separated since then. In this petition, the husband was the petitioner who sued for

dissolution of his marriage with his wife, on the ground of adultery coupled with desertion. There was no collusion and connivance between the parties in the matter of filing the petition for divorce and the wife had no objection to the dissolution of their marriage which might be decided on the ground of adultery and mutual consent.

This matter was decided according to the Indian Divorce Act, 1867 and awarded decree nisi by the trial court. However, the decree nisi was set aside by the High Court. As a matter of judicial discipline it was unable to confirm the decree nisi dissolving the marriage and remanded the petition to the trial court for giving an opportunity to the petitioner to implead the respondent and when impleaded, to issue notice to him allowing him to adduce evidence and then to decide the petition on the basis of evidence on record in accordance with law (Divorce suit No.3 of 1987).

(c) Forfeiture and Adoption:

The nokkroms are expected to live in the house of the parents. They are to look after them and support financially in their old age. If they fail to do so, they lose their rights of succession. A daughter of a principal wife was deprived of inheritance to a'king nokma because she separated herself from the family. Not only in terms of property but the nokkroms must look after them in sickness, blindness and old age. The Garo custom does not permit any relative who is blind, weak and destitute to go out of the house begging from others to support himself. This

is one of the Garo custom which is rare in other societies. They are kept in their house till they are dead and gone.

Case No.26 - Garo practise polygamous marriage when they are financially sound. A nokma had six wives and all his daughters and grand daughters did not remain in the house to look after the aged parents. Since the eldest wife had daughters and grand daughters, they should have stayed in the parents house and taken care of them and supported them. In this case, the daughter of his last wife remained in the house and took care of the old man. Although the nokkroms are selected by the parents; it is upto the daughter who remains in the house of the old parents and look after them till they are dead. The failure to look after, forfeits their right to nokmaship and the properties (C.R.No.6 (H)of 1961).

Case No.27 - In another case a nokkrom separated herself from the parents family, in the process she had forfeited her right to properties. After the death of the first wife, the nokma stayed with his concubine. So long he was alive, there was no dispute over anything. After he was dead, the dispute started between the daughters of the first wife and the concubine on the sucession of nokmaship of the a'king. In this dispute, since the concubine was still alive, the decision went in favour of her. After her death, the adopted daughter and the daughter of the first wife claimed the succession. The daughter of the first wife forfeited because she separated herself by establishing her own family apart from the parents house. The adopted daughter however, failed to prove her adoption (C.R.No.17(H) of 1961).

Marrying outside the father's clan by the nokkrom daughter forfeits the right to property. Ma'dong marriage, illegal marriages, mahari objection and etc. where the girl loses her right of succession to the family property. A widower who is guilty of the breach of a'kim, marries outside the ma'chong of the first wife against the will of the clan members also loses the right to hold his deceased wife's property. A wife forfeits the right to property if she deserts her husband without sufficient cause or elopes with another man. This way she totally disqualifies herself from the share in the inheritance of her husband's property.

Case No.28 - Mutual separation also makes the husband to lose his right to the clan properties of his wife. The mother of a woman filed a petition before the District Court for removal of the son-in-law from his nokmaship. The respondent opposed the demand that the separation was with mutual agreement between parties. Under the Garo customary law he did not lose a'kim right and was entitled to the property of the clan. The contention of the mother was that the husband after the separation with mutual agreement lost his right in the property of the clan and the a'kim belonged to the clan and where there was mutual separation, the husband so separated might be provided with another wife from the same clan but he cannot claim any right to a'kim (C.R.No.16 (H) of 1961).

Even in the trial court, it was accepted and the District courts also affirmed the rule that the mutual separation does not carry the right in the a'kim. The laskars and his assistants

also stated that if there was mutual separation, the husband lost his right in the a'kim. The husband may marry another wife provided by the clan members but after separation, the husband has no right in the a'kim of that family. Under the customary law, it should devolve on the daughter since she was still alive (C.R. No.51 (H) of 1953).

Adoption is also another important factor of Garo kinship. The custom of adoption is based on the natural instinct of individuals for continuance of their lineage and protection at their old age. Generally adoption takes place where the couple have no female child to inherit the family property. Male child is also adopted to assist the family in their household management like cultivation. The adopted male child leaves the family after his marriage as their society is a uxori-local one.

Case No.29 - Here in this case, the suit was filed by a woman for declaration of title, recovery and confirmation of possession in respect of land belonging to a couple, claiming herself to be their adopted daughter. The Subordinate District Council Court had tried this case whether the petitioner was really adopted by the couple which are as below:

- i. Whether there is a course of action of this suit,
- ii. Whether the plaintiff was adopted by the couple,
- iii. Whether the suit land belonged to the defendant,
- iv. Whether plaintiff lived in the house of the couple,
- v. Whether her elder sister was present along with her sister,
- vi. Whether according to Garo custom mere presence of a man or woman in somebody's house at the time of death of either husband

or wife of the family where such person lived which amounts to die in that person's hand ?

vii. Whether after the death of the wife, the clan people of deceased supplied and approached the husband with a suitable wife?

viii. Whether the defendant is closely related to the deceased wife ?

When the court examined the suit and persued the available evidence and records and other relevant documents, the judgement was not in favour of the plaintiff. The procedure for adoption had been referred from the book "The Garo Law" by Jobang Marak which reads:

When a girl is to be adopted a mahari meeting is convened for the purpose. The subsequent feast ratifies the adoption.

If the adopted girl leaves the house to which she was taken as an adopted daughter and does not return, she loses her right to the properties (Marak, J.D. 1952: ,p.54).

Depending on the evidences found by the Judicial Officer, the claim for the properties had been dismissed (Misc. Case No.14 of 1974).

(d) Theft, Rape and Murder:

When a person is found guilty of stealing, he has to return the same amount of money and the dai of Rs.25 to the family from which he had stolen the money. The compensation varies considerably, but may equal the value of the article itself. This kind of stealing cases are decided by the sordar or laskar in the village meetings.

Case No.30 - Here is an interesting case of borrowing a sum of money. A person borrowed Rs.200 from the petitioner and had not paid the same. Twenty two years had passed but he could not pay back. This case had been tried by the lower courts and again an appeal was preferred in the High Court for the realization of the borrowed money. The defendant had been directed to pay the amount by the laskar in the village court and again in the District Council Courts but did not pay it. The defendant admitted the claim in front of the laskar. The Judicial Officer wanted the money to be paid to the petitioners as the law of Limitation applies to the district. However, the decision in the High Court was different. The operation of the Indian Limitation Act had not been extended to the Garo Hills district. So the defendant had to pay the amount of Rs.200 without interest to the petitioners. According to the law, the borrowed money is to be paid in time otherwise it becomes theft in the society (Civil Revision No.63 (H) of 1955).

Case No.31 - In another theft case a person had been convicted as criminal and had been sentenced to vigorous imprisonment. On 2.11.1950, five persons broke open the house of one of their neighbours with lathis, spears, daos in the middle of the night with intention of crime. Every member of the family was assaulted severely and were injured in an attempt to defend themselves. They left with a small suit case containing cash, clothes, fountain pen, torch light, total values all of it all was Rs.68.12 annas.

The crime had been reported to the sardar of the village and he lodged the first information report at the Police Station. After completion of the investigation, the three appellants were sent up for trial at Tura while two others absconded. The Deputy Commissioner's Court decided the case. The judgement was that the guilty will have to undergo 10 years, of R.I. with a fine of Rs.100/- each. The petitioners had asked for minimising the years of imprisonment and the fines to be paid by each of the appellants and the order to undergo further rigorous imprisonment for six months in default of payment of fine. The High Court reduced the sentence passed on the appellants to 5 years (A.I.R. 1953 Assam III, Vol.40 C.N.50).

Case No.32 - The felling of trees from the a'king by unauthorised person and without permission is a serious crime in the eyes of the Garo. There was a claim for compensation to pay for the trees and the dispute over the partition of a'king land became a case for litigation. The petitioner was the A'king nokma 1 and the respondent was the A'king nokma 2 who asked the nokma 1 to separate his a'king and tried to fell the trees from that a'king. The nokma 1 had the control over the nokma 2 while the chra and mahari of the clan would take action about the partition of that separate a'king. All the disputes relating to a'king lands had to go to the District Council. Only after the District Council has given its judgement an appeal to the High Court can be preferred. Normally the High Court sends back the appeals to the District Council Court (Civil Rule No.172 of 1953).

There are always reserved forests in every a'king land. Nobody is allowed to cut such trees from that place without the permission of the villagers. It is the duty of the villagers to observe this rule. If the rule is violated he or she has to pay compensation as ordered or claimed by the senior nokma of that a'king. Cutting down of trees without the permission is considered as theft according to Garo law (Civil Revision No.208 (H) of 1954).

According to the Garo Law, the rape, adultery and violence are treated as amounting to killing and are considered immoral. Even on suspicion a person can be charged and punished. If these cases occur in the village the village authorities take action either by demanding dai or with punishments.

If it is proved that a man has committed rape, he has to pay dai of Rs.60/- to the girl. The Garos used to kill/a man who tried to commit adultery with any woman or girl. Any person who tried to commit adultery would be doing so at his own personal risk. If a man who had committed rape had a wife, he should pay a dai of Rs.60/- to his wife. But sexual relations with his own wife however minor she is, is not considered a rape, because the Garo have a law of replacement of girls in marriage even with the minor girls. If rape is committed with a married woman, the offence is considered very serious. In such cases earlier, the man was beheaded or was driven out of the village.

A penalty is imposed according to the social status in the villages at present. If the offence is not committed but the

attempt had been forcibly made with the intention of committing rape, a dai of Rs.15/- is imposed on the guilty person. If there were injuries on the man inflicted by the girl during the struggle, it is ignored (Marak, J.L.R., 1985: p.32-33).

Case No.33 - Head hunting is no more practised but murder, suicide and brawling occur in the community and they are all dealt with formal trials in the district courts. Murder had been punished by imprisonment. This kind of sentence does not fall within the customary law, but is imposed entirely by the government authority. In a village, a boy had a fight with his own father. The boy was lazy and not working, so the father had chastised him to be responsible for his work. The boy lost his temper and grabbed a bush knife and struck his father several times. The father died on the spot and the incident was reported to the district authorities. At the trial held by the Deputy Commissioner Court, the boy was found guilty of murder and sentenced to a prison. This action was taken in the trial court but in the village the relatives of father and son all met together and it was agreed that the relatives of the son should pay a dai of Rs.500 to the relatives of the father. Thus the last part of demanding of dai confirms the procedure of customary law existing in the villages (Burling, R. 1963, p.205). From the foregoing account it becomes evident that family, kinship and affinal relations are the main strongholds of Garo social control. Whether, it be to provide a wife to a widower or giving succession right to the rightful heir, all the cases are precisely pruned and sieved through the mahari and chatchi who give the

final decision. These authority is so strong that they can even bring back a person from the hang-men's noose as seen in case no. 33. Where in order to save the life of a youth the dai was resorted to the boy getting reinstated within the social frame work once again without being stigmatised as a murderer. The cases dealing with land is in abundance because that is the only wealth which is recognised by them till date and they do not want to forfeit their claim over it. However, with increased monetization the people put all that they have in stake to challenge the justice of the Village Council. Moreso, because modern jurisprudence is not something out of their bounds. The recourse taken to the modern jurisprudence does not necessarily imply flouting the traditional council, since, the jurisprudence does not go merely by words but by concrete evidence; and in its procedure it does take into cognizance the decision of mahari and in many cases the district council revokes the decision taken by the mahari. As yet, it cannot be claimed that the authority of the mahari has vanished totally. With the changing economic pattern and increased deployment of men and women in jobs among from the village weakens the joint family system, thereby, the mahari who can no more keep the kin members under close vigil. Thus, the mahari is not rendered useless; even today it upholds all those norms and values of the Garo society which had rendered the society viable and strong enough to hold its own in face of urbanization and change.

CHAPTER IV: GARO CUSTOMARY LAWS

(1) Socio- Religious

(11) Civil

(111) Criminal.

The Garo customary sanctions are the means to maintain law, order and discipline within the society. Breaches of these laws and customs though not rare, their remedial measures are known to every Garo. The characteristic feature of the Garo law is that in the process of growing up every adult Garo becomes aware of his rights as well as of other's rights. Neither anybody likes to infringe the rights of others, nor does anybody like to be interfered with or dishonoured.

The Garo attach a great value to the personal honour and it is protected at any cost. Vindication of honour is the motive in cases lodged for adjudication. Another characteristic is that a Garo is closely tied to his family, extended family and matrilineal kin group. His actions are as a member of their groupings. These groupings are responsible for his actions and behaviour and vice versa. Any deviation from the norm therefore, causes ripple in the groupings and disharmony in social relations. The harmony has to be restored. A'King nokma or songni nokma and the elders of the village are activated to restore normalcy.

Every Garo has to observe a code of conduct which guide him in his day to day activities and that he should not hurt the feelings or injure the honour of others. As anywhere there are rich and poor Garo. The rich Garo too are tied down to the social system and as a member of the Garo society they are expected to help their poor kin. Old and weak relatives are expected to be looked after by the family members and by the heiress of the house.

This is the main responsibility of the heiress irrespective of her wealth. It appears that the main idea around which the social structure of the Garo is woven that people take care of each other in old age or when in distress. The Garo do not like to be isolated from their relation either affinal or kin. They feel satisfied when every one is happy and when there are people to share in the sorrows or in distress. It is a participatory culture in which all adults are expected to play their ascribed roles.

(a) Socio-religious laws: The Garo believe in supernatural powers. They believe their customary laws have the sanction of the supernatural powers which makes every Garo to observe them strictly. The supernatural power if displeased can cause serious damages and can even cause death to those who have not acted properly. The villagers are careful not to violate any such law which concerns the supernatural powers. Their belief is so intense that if there is any sudden death or unusual sicknesses they correlate it to the anger of the supernatural power. Even the guilt of a person is proved by the reaction of the supernatural power. Like the Hindu religion, the Garo have many names for their unseen god. That unseen god or spirit is called mite which has different names for different occasions. I have not come across a Garo praying to his god as Christians pray morning, evening and before every meal. To invoke the spirit in case of serious sickness on some other incidents, they sacrifice fowl, goat, pig or bullock, etc. according to the seriousness of the sickness. On such occasions the priest does everything like

cutting the animal and uttering some incantations to appease the spirit. It is expected that the guilty persons will be punished by that spirit. If in the meantime anything happens to that person it is taken for granted that the spirit has taken revenge on his behalf.

The supreme power or spirit is called Tatara Rabuga who is the creator and keeper of human beings. He is being worshipped in every aspect of life in different forms and in different seasons and times. For example, in every agricultural cycle, festivals, ceremonies, sickness, after death ceremonies, marriages, epidemic, etc. Tatara Rabuga is worshipped.

#### A'songtata or Sacrificial Stones:

In every big Garo village there are sacrificial stones called Kosi at the entrance of the village. There are rough and unhewn stones, set up in the ground without any attempt at regularity and seldom more than three feet high. The sacrificial stone is cleansed once in a year with the animal blood of cow, dog, fowl or anything available. It is important that all the members of the village should participate in this activity. No outsider is allowed to enter or go out of the village at the time of this celebration. If anybody violates this, any amount of dai is fined. It takes one or two days in this celebration depending on the organization of big or small feasts they make. The nokma of the village has all the rights and obligations in organising the feasts. The blood of the sacrificed animal is offered to the stones while doing so all the villagers are

expected to take part in the worship of their mite. They have to pray to this mite to keep the village safe and sound from the enemies, from the diseases and also wild animals. The annual celebration of the stone is called as A'songtata. A priest in place of nokma can officiate at this sacrifice but it is for the nokma to provide for or sanction it. No person has the right to perform A'songtata without the sanction from the nokma. If anybody does this, it would not only be an usurpation of nokma's authority but would be tantamount to asserting himself as nokma and such person would be liable to pay heavy dai.

Case No.34: This is an application under Clause of the Assam High Court (Jurisdiction over District Council Courts) Order, 1954. The defendants have questioned the validity and correctness of the orders passed by "the village court" and the appellate Court constituted under the Garo Hills Autonomous District (Administration of Justice) Rules, 1953 hereinafter referred as "the Rules" for brevity, directing the defendants to pay compensation or "Dai" to the Plaintiffs for usurpation of the Plaintiffs exclusive propitiatory rights to control and guide the ceremonies at the sacred place called "ASONG" and laying claims over the ASONG (the sacred place in transgression of Garo Social Custom.

The plaintiffs as NOKMA lodged a case in the Court of "the Village Court" at Rongdingiri that the plaintiffs being AKHING NOKMAS had the exclusive rights over Asong, a place of sacrifice and ceremonies of a village where sometimes sacred stones are stocked into grounds, and privileges to provide for,

or sanction sacrifices and ceremonies therein. The defendants who were MAHARIS (Members of the same clan) defied the said customary rights, had propitiated and asserted their rights over the Ásong. They were violative of the Garo Customary rights and the defendants were liable to pay compensation or DAI under customary law. The defendants did not question their acts and conducts as alleged by the plaintiffs but asserted that the Maharis were also entitled to propitiate and had right to over the Ásong.

The Village Court constituted under "the Rules" held that the parties belonged to the same Clan; the place of worship or "Ásong" was the property over which the Nokmas alone had control and jurisdiction; the plaintiffs were the Akhing Nokmas who had the right over the Ásong falling within their Akhing land and the defendants had no right to "snatch" the Akhing land under any pretext. It held that the right of propitiation exclusively developed on the Nokmas however, the Maharis were entitled to take part in worship or to make offer for sacrifices in all ceremonies provided for or sanctioned by the Nokmas. The acts of the defendants in propitiation without permission and sanction of Nokmas were held to be violative of the customary rights of the Garos and made them liable to pay Dai or compensation to the plaintiffs.

An appeal was taken by the defendants under Rule X 21 of "the rules" to the Subordinate District Council Court. It reversed the order of the Village Court.

The plaintiff lodged an appeal before the Judicial Officer, District Council Court, Garo Hills District Council, Tura, who having set aside the order of the first appellate Court restored the order of the Village Court. The District Council Court has held that (1) the Nokmas alone had the exclusive right to propitiate the Asong; (2) the order of the first appellate Court was vitiated as (a) the appeal was heard and disposed of without serving any notice to the plaintiffs or otherwise hearing them, (b) it relied on an order which was not in fact the order of the Village Court; (3) the power and jurisdiction to perform the ceremonies vested exclusively upon the Nokmas and the Maharis had the right of participation in them but under the control and guidance of the Nokmas; (4) the claim which the defendants maharis lodged over the Asong and their acts of propitiation amounted to usurpation of the power of the Nokmas recognised in the Garo customary laws and relied on Major A Playfairs' "The Garo": and (5) upheld the imposition of Dai or compensation of Rs.50/- each against the defendants as ordered by the Village Courts. Mr. B.M. Mahanta, the learned Counsel for the petitioners has not questioned the jurisdiction of the Courts below. His twin attacks are that (1) the impugned orders of the Village Court and the second appeal Court are violative of section 3 of the Garo Hills Autonomous District (Social Customs and Practices) Act, 1954, as the practice of imposition of Dai on a Mahari for breach of any social custom and practice has since been abolished by the Act and (2) the defendants are Nokmas, as such, the impugned orders of the Village Court.

In Garo Hills long standing custom endow certain privileges to a Nokma. These privileges are constantly guarded and any breach thereof tantamounts to usurpation of the privileges and social position of a Nokma. There<sup>are</sup>/various ceremonies amongst the Garos which must be done with the leave or sanction of a Nokma or in his presence or by him. Performances of ceremonies at the Asong without a sanction of the Nokma tantamounts to usurpation equivalent to questioning the rights of the Nokmaship. A person violating it is liable to pay compensation or Dai. A sacred parcel of land is reserved for Asong and the entire area is kept reserved and considered very sacred and none is allowed to interfere with the properties on the land, including trees, bamboos, stones, etc. Any person cutting or removing any such things makes himself liable to pay Dai. This is the view expressed by Mr. Jangsan Sangma, in his book styled "Principles of Garo Laws".

Lt. K. R. Marak in his book "The Garos and Their Customary Laws and Usages" sets out all about the social crimes and offences under the customary laws of the Garos, in Chapter IX. About ASONG TATRAM, the author says that it is a plot of land set apart as a place of sacrifice to the village Gods protecting the village. None is allowed to remove any standing tree, bamboo or stone or anything from the place and any such trespass amounts to defiling the sacrificing stone itself and the defaulting party renders himself liable to pay DAI.

The word DAI was formerly known as GRO. Dai is not merely a penalty but is synonymous with the term compensation.

Major A. Playfair in his book "The Garos" (First Reprint) at page 92 has stated about "Asong" as thus:

"Close to the outskirts of every big village a number of stones may be noticed stuck into the ground, apparently without order or method. These are known by name of asong, and on them is offered the sacrifice which the Asongtata demands."

The author deals with the sacrificial stones and the privileges of the Nokma at pp.96 & 97. We quote a relevant passage hereunder:

"Though the priest officiates at the sacrifice, it is the privilege of the Nokma to provide for, or sanction it, and any attempt to usurp his rights quickly leads to litigation and a demand for compensation."

The author speaks about the right of Nokma in respect of the Asong land and offering of sacrifice, at page 74, which runs as follows:

"A third is the offering of sacrifice at the asong or sacrificial stones outside every large village. Such acts quickly lead to litigation, for the nokmas guard most jealously their rights to even the smallest patches of jungle, and are unceasing in their efforts to uphold them."

As such it is abundantly clear that it is the priest who may officiate at the sacrifice but the same cannot be done unless it is sanctioned or provided for by the Nokma. Any one who makes an attempt or endeavour to usurp the reserved privileges or rights

of a Nokma in respect of A'song commits a wrong and holds himself liable to pay compensation or "DAI".

Let us deal with the points urged by the learned Counsel for the petitioners. His first contention is that "Dai" or fine has been abolished by the Garo Hills Autonomous District (Social Customs and Practices) Act, 1954, has no bearing in the case. Section 3 of the said Act reads as under:

"3. ABOLITION OF DAI AND/OR FINE IMPOSED ON THE MAHARI.

The practice of imposing a Dai on the Mahari for breach of any Garo Social Customs by a member of that Mahari shall be abolished with the commencement of this Act;

Provided that it shall not be illegal for the Mahari to make voluntary contribution towards the payment of the Dai::

Provided that nothing in this Act shall prevent the realisation of Dai from properties held jointly by the offender and the Mahari."

By this provision the practice of imposition of Dai or fine imposed on a Mahari by a Mahari has been abolished. Formerly a Mahari (member of the same clan) could impose Dai or fine on another Mahari. This practice was not found favour with by the law makers, namely, the District Council and they have very rightly abolished the same,. But, however, the provision has not taken away the right of a duly constituted Court to impose penalty or compensation for breach of social customs and practices. We do not find anything in section 3 of the said Act to lead us to the conclusion that the provision

has taken away the power of the Court to impose fine or direct payment of compensation, either expressly or by necessary intendment. The section debars imposition of a Dai "by a member of that Mahari". The Village Court or Judge, District Council Court do not fall within the fold of the aforesaid expression. We reject the first contention of the Counsel for the petitioners and hold that the Courts have power and jurisdiction to impose fine or direct payment of compensation in accordance with law. Apart from this, we find that this stance was never taken by the petitioners before any of the three Courts below.

The next contention of the learned Counsel requires summary rejection. We have carefully scanned and scrutinised the impugned orders and find clear findings to show that the plaintiffs are the Nokmas. Further it was never the case of the defendants-petitioners that the plaintiffs were not the Nokmas. The contention of the learned Counsel that the petitioners are the Nokmas is an innovation made for the first time during the course of the argument. It does not appear from the judgements of the three courts that any point of time the petitioners had claimed that they were the Nokmas. We feel inclined to say this far and no further that the contention is argument in desperation.

We repeat that the petitioners did not urge any other point and conclude with the observations that we were inclined to dismiss the petition with heavy costs but in view of the quantum of the compensation determined, we propose to dismiss the petition with a token cost, which we assess at Rs.50/- payable by the petitioners to the Opposite Parties (Civil Revision No.15(H) of 1973).

The sacred land A'song is kept reserved, therefore, no one is allowed to cut or remove a tree, bamboo or stone from that place. Any one found doing that is liable to pay a heavy dai.

Bachelors' Dormitory (Nokpante):

Each clan in Garo village has its own nokpante for its bachelors. The socio-cultural life of a Garo man starts taking a shape from nokpante. He starts residing there with other boys from the age of twelve or thirteen. Nokpante is a beautifully decorated house with carvings of birds and animals on all posts and beams of the house. Every village has more than one nokpante depending on the residing major clans in the village i.e. eqah clan having : nokpante for its bachelors. The nokpante is built in the centre of the village and to safeguard the nokpante from evil and misfortune sacrifice of cow or dogs is made to the various spirits. All men are allowed to enter the nokpante without any restrictions through the front door. However, women are not allowed to enter through the front door but by the back door only. If it is found, that she has violated this rule she is either beaten up or a dai is imposed on her by the inmates of the nokpante. Or else, she may have to give one pig and a big pot of rice-beer as dai. The inmates of the nokpante perform a purificatory rite by sacrificing a hen and burn incense and pour rice beer by beating the floor. After sacrificing the hen, its entrails are observed to read omens. The defilement of the nokpante is called nokmarang. The nokpante is also used as a guest house, It is used as a court room by the nokma and laskar whenever necessary to settle disputes of general matters.

Garos believe also in natural forces like thunder, lightning, rain, wind, earthquake, eclipses and stars in the sky which are not in themselves the object of any worship or sacrifice but each one of them is controlled by spirits. Sacrifices are offered to these spirits, when rain or sunshine is required, or when the people apprehend some natural disaster.

The rain god is invoked by performing Wachitata or Salgrua sacrifice if there is a long drought. All the male members of a village assemble at a big rock nearby, each holding a gourd vessel full of water in hand. The kamal (priest) recites prayer imploring god to have mercy on them, then he sacrifices a goat and smears its blood upon the rock. Then the assembled members pour the contents of their gourd vessels over the priest to the accompaniment of beating of drums and blowing of wind instruments. Water is also poured on these assembled there until their bodies and clothes become completely wet. The custom allows that the villagers can catch anybody's cattle or goat for sacrifice for performing Wachitata ceremony. The owner could claim the price of the animal but there would be no criminal liability on those who catch the animal.

On the other hand, when the rain is too excessive and continues for many days at a stretch, another ceremony to stop rain and obtain sunshine is performed which is known as Salakso'a or burning of the sun. In this ceremony, the fire is lighted round the same rocks to bring warmth and sunshine. Playfair says that in this Salakso'a ceremony, a goat or fowl is offered

to invoke the spirits (Playfair, 1909, p.89). Jangsan Sangma contradicted that it is not necessary to sacrifice animal for this ceremony (Sangma, J. 1973, p.30). In every village, a small piece of land is set apart for this ceremony and no one is allowed to utilise or clear the place, this land is considered as sacred land by the people. If any person violates this rule, he had to pay heavy dai.

Although these matters are considered sacred, violations of the sacred norms do take place. In such cases attempt is made to punish the guilty but as it often happens, sacred laws are no exception, that interpretation of law and perception of one's action could be different resulting in disputes, appeals and so on. There was one case in the Subordinate District Council Court regarding the occupation of Salak the place of worship by some villagers. When it came to the notice of the nokma, those villagers were liable to pay heavy dai for the violation the rule of Salakso'a.

Case No.35- In every village of the tribe, piece of ground is also kept reserved to perform sacrifice for the Rain God for giving the rain. The sacrificial ceremony for obtaining rains when there is draught is known as Wachitata. A priest known as Kamal, invokes rain god to have mercy on them and thereafter the villagers pour water on him and on everybody until their bodies and cloths become wet. If the water were coloured it might be possible to equate it with Holi. Custom allows the villagers to catch any resident's cattle for sacrificing at

Wachitata; the owner could claim the price, but there would be no criminal liability. On the other hand, when the rains are much too excessive and have continued for days, another ceremony is performed to obtain sunshine, and this is known as Salaksoa. Here the villagers set ablaze heaps of fuels. It is not necessary to sacrifice animal for Salaksoa. The area which is reserved for these purposes is also held sacred by the people and no one is allowed to clear or cultivate the land, or set fire except for Salaksoa, within that area. Any person violating these rules would have to pay a heavy dai.

Case law: - A nokma put up a fishing weir at the area reserved for sacrifice to rain god. When there was scarcity of rain the villagers destroyed the fishing weir and sacrificed a bull belonging to a resident. There was no claim for price of the bull by the owner. Court held that the villagers were entitled to destroy that construction, and that there being no claim for price of the bull by the owner, the Court had no jurisdiction to direct payment of the price. (Assam High Court in C.Rvn . No.31(H)/57, unreported).

Case No.35 A- This is an application under rule 35 of the rules framed for the Administration of Justice and Police in the Garo Hills District, directed against an order of the learned Deputy Commissioner of Garo Hills, dated 14.9.49, by which he set aside his previous order, dated 8.7.49.

The facts material to the application are these. It appears that one Nokdi Mechik filed proceedings for compensation before the A.D.M., Garo Hills, alleging that Nonggan Marak and others had cut an old tree standing upon his property. The learned A.D.M. came to the conclusion that the damage to the property of Nokdi Mechik had been proved and awarded compensation in the sum of Rs.100/- against the opposite party. The opposite party appealed to the Deputy Commissioner against the order passed by the learned A.D.M. The learned Deputy Commissioner dismissed the appeal while upholding the order of the A.D.M. granting compensation to the appellant. For some reason or other, the learned Deputy Commissioner appears to have revived this matter and referred to a decree which is not on the record, in which apparently the decision was that the petitioner had lost all her right and title to the land, and that the land was the property of some 3 other persons, and accordingly set aside his own order, dated 8.7.49.

It has been rightly contended by the advocate for the petitioner that the learned Deputy Commissioner had no jurisdiction to revise or review his own order; that there is no provision in the rules framed for the Administration of Justice and Police in the Garo Hills empowering a Deputy Commissioner to revise or review his own order. It might have been possible to decline to interfere in this revision application if it was made sufficiently clear to me that a wrong had been righted, but, in the absence of the document to which the learned D.C. has referred in his order, dated 14.9.49, it is impossible to come to the

conclusion that the learned D.C. has merely righted a wrong. As the learned D.C. had no power to revise or review his own order, it follows that the order passed by him, dated 14.9.49 must be set aside, and the order passed by him on 8.7.49, by which he dismissed the appeal of the respondent against the order passed by the learned A.D.M. on 24.6.49, restored.

The result is that the application is allowed and the learned D.C.'s order dated 14.9.49 is set aside. (Civil Revision No.116(H) of 1949, Vol.I, p.29).

Case No.36 - Nobody is allowed to cut a tree if it stands on the land in the possession of a a'king nokma, without the permission of the nokma. Here special mention is made of Civil Revision No.116 of 1949 Vol.I, p.29 a case fought between Nokdi Mechik and Nangan Marak.

Possession of Kram: Kram is a special drum which ritually only nokma is allowed to keep. Only he and his relatives can beat it on solemn occasions like funeral and annual ceremonies of religious nature. This drum is very important specially in funeral and festivals like Wangala when this drum is to be taken out by the nokma himself and brought back by him and it should be kept at the same place after the function is over. A sacrifice is made to the spirit when the drum is taken out. This spirit takes care of the drum and the house and its family members. If this rule is not observed people believe that misfortune may fall on the person or his family for infringement of the rule. These drums are consecrated by sacrificing

a fowl and smearing its blood on the drum.

Case No.37 - There was a dispute over the kram who wanted to keep it. Since some strange rules and superstitions are connected with the possession of kram, nobody can take out of the owner's or nokma's house except on the occasion of an important ceremony. It cannot be touched by anybody else but the owner or in his absence one of the relatives may take up first and the other relatives follow. If anything happens to the family of the nokma like death, accident or anything misfortune strikes, it is believed to be the revenge of the spirit for violating the rule of the kram (District Council Court No.11 of 1970).

There is a small wooden drum called natik which serves as the accompaniment of the kram, but it has no individual part to play. So the kram and natik are kept together. Another drum is called nagra which is a large drum consisting of an earthenware pot covered with hide and skin. This drum is of symbolic value. It is sounded in order to make people assemble at the nokma's house for a meeting or discussion. This drum is not used as musical instrument but only for the purpose of announcing some occasion in the village. If anybody violates this rule, and uses the drum for other purposes the nokma demands heavy dai against the defaulting villager.

Playfair states that the Garos believe that death can be caused by the simple process of placing some <sup>r</sup>stands of hair of the person conspired against with a little earth and some snippings of his or her clothing into a section of a bamboo. The

conspirator offers these things to some evil spirit and prays that death may come to his enemy. He then hangs up the bamboo in his house over the fireplace and it is believed that the person whose life is thus aimed at will waste away and die. Another form of sorcery is to place some of the faeces of the enemy into an earthenware pot and bury it in a white ants' nest, after having invoked the aid of a spirit. This practice is known in the Am'beng area as datteka or su'sika.

An old woman one day came to the court with a complaint against her husband. She alleged that he was trying to cause her death by the process first described above so that he may marry a young and pretty girl on whom he had set his affections (Playfair, 1909; 117). The whole process is known as sam daka or sam kal'aka which can be termed as black magic. If a person is caught practicing sam daka, he is brought to the notice of everybody in the village and he is subjected to the same sorcery by professionals. To punish such persons, the villagers remove him from the village and excommunicate him and his family.

Garos keep herbal plants for medicinal purposes. The most important of all the plants is called dikge which has thousands of varieties. Each one of them is used to cure a different disease. If a person does not recover after animals have been sacrificed the herbal plants and roots are resorted to for curing specific diseases. Some herbs are used for bringing wealth into the house. It is known as bira jila which is supposed to bring money and any thing needed in the house.

However, it needs periodic sacrifices of fowl or egg to propitiate the spirits which lies embodied in these herbs. The spirit is not tangible but it can always be felt by its nearness in form of cat or human being. It makes big noises around the house specially on the top of the roofs. It is also known at times to desire marriage with its owner. If that herb disturbs the harmony of the family, it can be destroyed and thrown out of the house. Another effect of this herb is on the babies and small children whom it attacks and makes them suffer to a great intensity for which medical help is rendered useless. If the child survives the attack, she/he becomes abnormal. Usually children die of this attack known as sokso doka. Due to this reason, some herbs are planted in an isolated place in the house compound.

Thus all the rites, rituals and sacrifices have a set rule and these have to be strictly followed by the Garos. Birth, death and naming ceremony difficult delivery all have a set rule of sacrifices. During difficult delivery fowl is sacrificed for a smoother delivery. On the occasion of naming ceremony a spirit is invoked by sacrificing an animal to ensure longevity of the child. During sickness the man is treated by the medicineman who prescribes medicines as well as the sacrificing of animals to restore his well being. The medicine man is known as Oja, his medicines are mainly herbs and roots and varieties of plants collected from the jungle painstakingly and processed prior to administration. The knowledge and understanding of the herbs and human ailments is knowledge which had been attained by

accumulation over generations and is not imparted to others. The oja is not only used for curing sick persons, but his services are also employed for sam kal'aka i.e. sorcery and black magic. To inflict pain, death and misfortune upon enemies by the help of poisonous herbs and roots; the oja performs these even without knowing the victim.

A year after the death of a person, mangona or delang s'Co'a is observed by the relatives. For this ceremony a lot of liquor is needed. The household of the deceased person prepares the rice beer well in advance and a bullock is sacrificed to appease the spirit of the dead as well as the mite. The ceremony is observed with singing, dancing and drinking and also serving food to the dead for the last time. This ceremony has to be observed, as the dead has to be respected and that he should be happy in the land of death or me'mang a'song.

In front of every house a wooden post is erected with a anthropomorphic form, this is called Kima songa. After the death of a family member a wooden post is carved out in his memory, decorated with the dead man's dresses, beads and earrings and erected in front of the house. On every festival, the family members remember the dead by offering some food and drink to the post. Nobody can remove or transfer this post once it is erected in front of the house.

#### Cultivation and associated rituals

Earlier it has been mentioned that land is one of their prized possession and cultivation becomes the prime factor

regulating their lives. Each step involved in cultivation is marked out by rituals which are strictly observed by all since it not only affects the well being of the individual but of the entire village, any sacrilege in this regards renders the entire village vulnerable to attacks of the malevolent spirits, Specifically for jhum cultivation Garos observe several rituals. These rituals are observed with appropriate sacrifices of the animals and offering of rice beer. These rituals are observed to obtain bumper crop. The offerings depend upon the good or bad season which is detected by the favour or disfavour shown by the mite. Rice is their staple food. Attempt is made to store enough rice in season for the whole year and sometimes beyond. The idea is that there should not be any dearth of rice at any-time for their daily consumption as well as for festivals and for making rice beer. The Garo keep barns of paddy on the outskirts of the village for fear of fire. All the barns of the house-holds are built at the same place. That is why at times wild animals like elephants bring havoc by destroying the barns and everything that are kept inside the barn. Before the harvest festival no one can eat the produce of the field without performing the ceremony. This festival is known as Wangala which is the most important of all the festivals and ceremonies in the agricultural cycle. The festival is spread over to three or four days during which time the people keep on drinking and dancing. The nokma of the village is the host in this ceremony and he feeds the villagers with drinks and meat. For this he may have to slaughter three or four cows and bullocks according to his capacity. The other rich people of the village

may also kill many bullocks and feed others. But there are poor and widows who may not be able to feed others like them.

This ceremony has now attained a national prestige and is sponsored as the state festival and is referred to as festival of the hundred drums. It is one of the major tourist attraction, wherein, all the regional dance groups join and perform for the public. Traditionally every member of the village was supposed to participate in these festivals. At times these village festivities ended with breaking of an epidemic like cholera, malaria, small pox or kala-azar and to appease the spirits of these diseases the nokma had to decide a day for performing the animal sacrifice. During such rituals no outsider is allowed to enter the village. This is strictly imposed by the nokma. Not complying to the wishes of the nokma amounts to intended indifference to the authority and such cases are dealt with by the traditional councils.

Experts have classified Garo laws into civil, criminal and non-criminal laws. However, my classification is two types namely civil and criminal. In civil laws, the acts like contempt, insult, quarrel, ridicule, serious practical jokes, calumny, social disputes and land disputes, matters relating to discipline, etiquette and manners are grouped together. Under criminal laws theft, murder, attempt to murder etc. are brought. The violation of the norms of the society are brought to the notice of the chras and maharis and later the nokma and the villagers decide the matter and impose the dai one has to

pay for his guilt or mistake.

Civil Laws-

Case No. 38 - When a man entices away another man's wife, he is to pay Rs.60 as dai or compensation to the husband for the act of enticement had already been completed.

This Rule was obtained by Thangjing Marak Nokma of Megonggre, Elaka- Rongseng Laskar, against an order of the Senior Judicial Officer of the Garo Hills District Council Court. It is admitted that Alison Sangma, the opposite party in this case, enticed away Thangjing Marak's wife, Soni Mechik (since deceased) about four years ago, and on this matter being brought to the notice of the Court, the Deputy Commissioner, by his order dated 2.3.51, directed that Alison Sangma should pay Rs.60/-as dai or compensation to Thangjing. The Laskar was to realise the amount for payment to the complainant. It appears that no payment was made by Alison Sangma, and he subsequently set up a false plea of payment of the amount by Soni Mechik. That matter was further enquired into and it was found by the learned Magistrate-vide his order, dated 19.8.54, that there was no such payment made, and he only endorsed the earlier order of the Deputy Commissioner that Alison Sangma was to pay the dai of Rs.60/- within twenty days from the date of the order. Alison Sangma, instead of making the payment, took the matter in appeal to the Judicial Officer of the District Council Court, who revised the earlier order of the Deputy Commissioner and directed that since Soni Mechik is dead, Alison's share of the dai is limited to Rs.30/- only, which he should pay.

The matter has been contested mainly on the ground that the Judicial Officer had no jurisdiction to revise the order of the Deputy Commissioner, which had already become final as between the parties. The contention is quite sound, and the Judicial Officer would be better advised not to entertain appeals from the order of the Deputy Commissioner or his Assistant. Since the rules do not so provide.

It is accordingly directed that the order of the Judicial Officer be set aside and the earlier order of the Deputy Commissioner be restored, and the Laskar to realise Rs.60/- as dai from Alison Sangma for the act of enticement which has already been completed. I need not go into other details involved in the order, since they are not necessary for the disposal of this application. It is accordingly directed that Alison Sangma the opposite party, is to pay the amount already directed by the Deputy Commissioner. The Rule is made absolute, (Criminal Revision No.216(A) of 1954).

Seducement (mong'a sala):

The Garo do not allow seducement (mong'a sala) of a married woman. If a woman appeals to the village court and is able to prove the guilt of the man, the offender must pay dai of Rs.5/- for the shame and embarrassment caused to the other. To allure a woman like speaking amorous words; solicitation or beckoning; call by whistling or hissing; invite by winking; grasping or squeezing the wrist; caressing; pat with the palm of the hand and press the girls' toes with his, are some of the acts for

which the offender has to pay dai if the person so tempted does not approve of such approaches and is able to prove it.

Touch the woman's breasts forcibly (sok rim'draa):

Touching the breasts of a woman (sok rim'draa) is regarded as a serious offence. The penalty imposed for such an offence is of dai Rs.15/- to be paid to the woman. If the sexual act also had been committed a dai of Rs.30/- is to be paid for the offence.

Unchastity, Cuckold adultery (so'mal dona):

When a husband has another mistress other than his wife and has committed adultery, he has to pay dai of Rs.30/-. After the death of the husband, a wife cannot marry again without completing the death ceremony after one year. Otherwise, the fine ranging from Rs.15/- to Rs.60/- with the dai increases to Rs.90/- and four koras or gongs. This is called me'mang rasi or delang rasi.

In case of so'mal cha'a, the chra kill a hen or cock for speaking obscene words. So the grand uncle or uncle cannot speak any immoral words to anybody, otherwise his fowls will be cut and eaten by the chra. If a married woman is not faithful to her husband, it is considered an abominable sin which is called so'mal. It is involved with all the relatives of the husband and wife on the other side and the offended husband and wife. In olden days, it is said that a person who had committed such a crime was not left alive. At present, a cow or a pig is killed by force for the committed offence against her husband.

Social Crimes and Forbidden Acts (Asimalja, Dakmalja, Nima):

Costa (1954), Bertrand (1958) and Roy and Rizvi (1990) all the four experts at different time of history have opined that in the Garo society, the guiding principle adopted by a Garo for his or her code of conduct in public and private life can be classified in three words which are self contained code of observance as well as a mirror of the Garo psyche. These words are: asimalja, dakmalja and nima. The asimalja pertains to a moral rather than a legal code. The genesis of asimalja is ascribed to a legend where a woman named Asi and her husband Malja committed a crime. The wrath of the supernatural powers fall upon them. Asi was killed by a tiger while Malja was devoured by a crocodile. Since the two were killed by animals, their corpses could not be cremated in accordance to A'chik ceremony designed to assist the spirit on its onward journey to the eternal abode. No human law can punish them. Thus asimalja pertains to rather moral code than a legal code. Similarly dakmalja, if translated, means "thou shalt not". The Garo consider any violation of this code of honour (comprising of moral, civil, criminal and penal laws) which invites the anger and wrath of the benevolent spirit. Further, nima according to Costa (1954) refers to rules of etiquette or actions 'not permitted'. It is forbidden to see, to hear and also speak about such word. These words can neither be defined nor translated literally; it is rather a wholly moral force derived from generations. It is such a powerful word that a mere pronouncement is enough to restrain a Garo from committing

evil or to make him distressed specially those who have allowed themselves to fall into temptation. It is a word by which every one is absolutely bound, to avoid evil if he does not wish to incur the anger of the spirit. It is a believe force, that people abstain themselves for fear of befalling any evil on them.

On rainy days when the weather looks dangerous, people do not leave the village or the house. It is believed that if anybody ventures out that person may not come back home alive, either he is killed by wild animals or by water animals like eel, sea serpent or alligator, etc. Accidents like falling from the tree and from the high hill, being cut by a sharp instrument or some misfortune which may be fall, So every body stays at home. Garos believe in inauspicious days and consult an oracle for the forecast. The usual habit of not eating the first fruits and vegetables from the field without performing ceremony to the god who has provided has become universal practice among them. If anybody goes against these rules, they are fined according to the seriousness of the case. To avoid such accidents and incidents, dakmalja and asimalja is observed.

For instance, (1) Two sons never marry two daughters of the same family; (2) Children of minor age cannot scold or insult the elders in the family or outside; (3) While going in a funeral procession, one should not look back; (4) One must not call his elders by names; (5) While going into the jungle, no one must talk of any wild animals. If it is essential, then words other than the names have to be used e.g. for elephant

it is a big one and for tiger it is one who never washes his face, etc. Even dreams also bring good luck and bad luck, accidents and incidents, misfortunes and sicknesses and finally warnings.

Taboo (nima):

These are the dos and dont's in the every day life of a Garo. These taboo or nima comprise of traditional usages which form the whole or at least a great part of the etiquette in daily life. If anybody violates these rules, they are not punished or fined but a disregard of these social convention brings shame upon the transgressor and casts doubt upon his morality.

For example; (1) after attending a funeral, a person must not enter his own house without bathing himself or washing; (2) One should not cross over the bamboo pole by which the coffin is carried; (3) when someone dies in the village no one should go for work; (4) If a hen usually does not crow, it should be killed immediately; (5) When cock crows at night, it is inauspicious; (6) Babies are not carried over head; (7) Whistling at night is not allowed; (8) Woman are not to whistle at allp (9) No one is allowed to sit at the entrance of the main door; (10) A woman who is pregnant is not allowed to drink water from the leaf of a yam; (11) A woman's place in the house is always near the fire place; (12) A person must make a sign of warning while passing through the water place; (13) Women do not walk in front of her male relatives; (14) Men do not touch female dresses; (15) People should not sleep putting the head

towards the west; (16) Men should walk behind woman in danger; (17) A dying eyes have to be closed and his limbs properly placed; (18) While burying a dead, the head of the corpse should be placed towards the east; (19) One should never refuse drinks offered during the festivals and ceremonies; (20) Seniority is counted in every aspect of life.

A'king is a tract of land, the ownership of which is vested in a village community; but the village land is owned by a particular clan or motherhood. Ownership belongs actually to the original ancestress whose heiress held the possession in successive generations.

There are several categories of a'king land. They are:

1. A'joma or a'jinma, 2. A'mate, 3. A'jikse, 4. A'millam.

A'joma is a common land of a particular ma'chong or motherhood. In the case of common land or property, the mahari has a voice in all matters concerning the land. The explicit consent of the members of the ma'chong has to be obtained before taking any decision on the land. The nokma has to act according to the wishes of the chras and mahari (Sangma, J. 1973, p.23).

A'mate is purchased by a particular ma'chong or by an individual but nevertheless forms a part of the original a'king land. It is actually a parcel of land belonging to another ma'chong's a'king. Ownership of a part of the village land is actually incipient individual ownership by purchase. Although this type of purchase is individual in character, the land so

purchased is cultivated by the descendants of the purchasing family or the ma'chong (Sangma, J. 1973, p.23).

Case No.38(A) - Under the Garo Law the A'king land belongs to the mother of the house and her nokma and not to the father of the house. The Garo husband is only a guardian and manager of his wife's properties and as such he cannot dispose of them, nor can he make the property liable for any debt incurred by the father of the house without an explicit assent of the mother of the house and other female members of the family and some other important members of the family group. No a'king land can be disposed of in any way without the consent of the mother of the house, chras and chatchis and prominent female members of the mother's ma'chong or family group. Consequently the Garo husband has no legal right to encumber the a'king land by taking loan from some other persons without the express consent of his wife and other important female members of the family. He also has no right to transfer the a'king land for such debt without the express consent of the mother of the house and other female members.

The plaintiff petitioner instituted Miscellaneous Case No. 32 of 1963 in Subordinate Court of the Garo Hills District Council claiming the a'king of Boldangre village as the nokma of the clan. Her case was that her father Late Tosu was the nokma of Boldangre A'king. Late Tosu incurred some debts, but could not repay. One Khewil Marak cleared the debts of Tosu and he got the A'king land temporarily transferred in his favour from

Tosu Nokma. Khewil had two wives, namely Damje Sangma and Gonje Sangma. Khewil died in 1963. Gonje had one female issue, namely Jiji Me'chik. Damje had none. Jiji was married to Singwan Marak, defendant No.2. Both his wives having died. Khewil married Khilji Sangma, defendant No.1.

Tosu had also two wives, namely Namje Sangma and Manje Sangma. The main wife Namje had two daughters, Singme Sangma Me'chik the plaintiff and Dongme. But Manje had no issue.

It was contended by the plaintiff that the transfer of the a'king land by Tosu to Khewil was only conditional and not absolute and as such it did not confer any title on Kewil and through him on the defendants. The A'king land or any part of it would not be sold out without the consent of the maharis and that at the time of transfer of the a'king in question, a condition was laid down that on the plaintiff attaining majority, the a'king would revert to the plaintiff and that the third wife of Late Khewil namely defendant No.1 did not belong to 'Sko' clan and that she was not supplied as wife to Late Khewil by her maharis and such she could not be the nokma of the a'king and that the defendants secretly registered their names as nokmas of the a'king and therefore they could not legally claim the nokmaship under the customary law.

The case of the defendants - respondents was that the property was transferred by Tosu Nokma to Khewil Marak as he had paid all the debts of Tosu and that Khewil Nokma had two wives, namely Damje Sangma and Gonje Sangma and that Damje Sangma had

no issue while Gonje Sangma had one daughter. Jiji Sangma wife of defendant No.2 and that after the death of Damje, Khewil took defendant No.1 as his third wife and thus the defendants claimed the property through Khewil Marak.

The case was heard by the learned Judicial Officer, Subordinate Court, Garo Hills District Council was dismissed the plaintiff's case. The plaintiff preferred an appeal before the Garo Hills District Council Court, which dismissed the appeal. Thereafter the plaintiff moved the High Court under Cl.6 of the Assam High Court (Jurisdiction over District Council Courts) Order, 1954 in Civil Revision No.2 (H) of 1964 and the High Court by its judgement and order dated 21.12.1964 set aside the judgement and orders of the Courts below and sent the case back to the Subordinate District Council Court for proper decision.

After remand, the learned Judicial Officer, Subordinate Court Garo Hills District Council, recorded evidence of the parties and by his judgement and order dated 29.8.1966 dismissed the plaintiff's case. Against the said judgement and order, the plaintiff preferred an appeal before the District Court, Garo Hills District Council which was registered as Miscellaneous Appeal No.6 of 1966. The learned Judicial Officer by his order dated 29.4.1967 dismissed the plaintiff petition's appeal, and against this order the present petition has been filed in this Court.

Mr.Lahiri, the learned Counsel for the petitioner, has submitted before us that the property in dispute is a 'king land

and it belonged to the mother of the house and her nokma and not to the father of the house nor to nokkrom. In other words, the suit property belonged to Nanje Sangma, the mother of the plaintiff. From Sec.29 of the Garo Law by Jobang D.Marak, it is found that the Garo husband is only a guardian and manager of his wife's properties and as such he cannot dispose of them nor enter them into any liabilities without an explicit assent of the mother of the house and other important female members of the family group. From Section 36 of the same book we find that no a'king land can be disposed of in any way without the consent of the mother of the house, chras and chatchis and prominent female members of the mother's ma'chong or family group. In the instant case, the admitted position is that the suit land which is a'king land was transferred for the debts of Tosu Sangma in favour of Khewil.

The point that falls for determination in this case is whether by the transfer of the a'king land made by Tosu Sangma to repay his debts any title passed to Khewil, depriving the plaintiff who was a minor at the time of transfer.

The learned Lower Appellate Court has relied on two orders passed by the Deputy Commissioner, Garo Hills on 26.9.1935 and 4.1.1936. From the order of the Deputy Commissioner dated 26.9.1935 quoted in the judgement of the Lower Appellate Court it is found that Khewil paid Rs.766-8-0 to clear the debts of Tosu Nokma, who borrowed the same from Thajing and Ginjing. Khewil wanted the a'king but Namje and the maharis and chatchis present objected to giving the a'king to Khewil unless Tosu's

name was added there. The Deputy Commissioner decided that half of the amount, that is Rs.383-4-0 must be paid by Tosu to Khewil by 4.1.1936 and if he paid, then Khewil and Tosu would be joint nokmas in respect of the a'king land and on the failure of Tosu to pay the amount in question to Khewil, the a'king of Boldamgre would go to Khewil with his wife Gonje as nokma. From the order of the Deputy Commissioner dated 4.1.1936 as quoted in the Lower Appellate Court's judgement it is found that Tosu failed to pay the amount as ordered and therefore the Deputy Commissioner ordered that the a'king went to Khewil.

Under the Garo Law, the a'king land belongs to the mother of the house and her nokma and not to the father of the house and the Garo husband is only a guardian and manager of his wife's properties and as such he cannot dispose of them nor can he make the property liable for any debt incurred by the father of the house without an explicit assent of the mother of the house and other female members of the family and some other important members of the family group. No a'king land can be disposed of in any way without the consent of the mother of the house, chras and chatchis and prominent female members of the mother's ma'chong or family group. From Major Playfair's book called 'The Garos', we find the following in the inheritance chapter:

"The system which divides the Garo tribe into certain clans and motherhoods, the members of which trace back their descent to a common ancestress, and which has laid down that descent in the clan shall be through the mother and not through

the father also provides that inheritance shall follow the same course, and shall be restricted to the female line. No man may possess property, unless he has acquired it by his own exertions. No man can inherit property under any circumstances whatever."

From the above mentioned two orders of the learned Deputy Commissioner it does not appear that the mother of the house, namely Namje, wife of Tosu, transferred the land or she expressly allowed her husband to transfer the a'king land. It also does not appear from the said orders of the Deputy Commissioner that the liabilities incurred by Tosu in connection with the a'king land was incurred with the explicit assent of the mother of the house and other female members of the family. At the relevant time, the daughter of Namje namely the plaintiff was a minor. So the question of consent did not arise at all.

On a consideration of the above facts and the incidents of Garo Law, I hold that Tosu had no legal right to encumber the a'king land by taking loan from some other persons without the express consent of Namje and other important female members of the family and he also had no right to transfer that the a'king land for such debt without the express consent of the mother of the house and other female members. In the circumstances, by the Deputy Commissioner's orders referred to above, title in the a'king land could not pass to Khewil. At the most, it can be said that the nokmaship vested in Tosu, was transferred to Khewil and when Khewil died, the a'king land would revert to the mother of the house and her daughter and since Namje is no more, the

a'king land cannot be said to have passed to Khewil by mutation in the revenue records. The finding of the learned Lower Appellate Court that the transfer of the a'king land by Tosu in favour of Khewil was unconditional and absolute is not correct in as much as Tosu had no authority to encumber the a'king land and transfer the same in violation of the Garo Customary Law. By the transfer of the a'king alleged to have been made by Tosu and enforce by the executive orders of the Deputy Commissioner, the title to a'king could not pass but only the nokmaship or the managerial rights of Tosu as husband of Namje might have passed.

Rule 39 of the Rules for the Administration of Justice and Police in the Garo Hills District, 1937 reads as follows:

"Although the Indian Limitation Act 1908 (Article ix of 1908) has been barred by Notification No.5868 A.P. dated 8th September 1934, the principles of the Act should be closely followed in disputes between the persons not belonging to a scheduled tribe or tribes, specified in items 1 and 2 of Part I-Assam of the Scheduled to the Constitution (Scheduled Tribes Order 1950)".

The Limitation Act, therefore, is not applicable to the instant case as both the parties belong to the Scheduled Tribe and as such the question of adverse possession does not arise here. The delay on the part of the plaintiff in coming to the Court cannot deprive her of the a'king. It appears that Khewil died in early part of 1963 and the plaintiff put forth her claim in the same year for the a'king and the nokmaship. In the circumstances, I hold that the a'king of Boldamgre has been inherited by the plaintiff as the legal representative of her mother Namje.

I hold the names of Khilji Sangma and her son-in-law Singwan Marak defendants No.1 and 2 as Nokmas of Boldamgre A'king land should be removed in as much as they were appointed nokmas on the basis that the title in the a'king land, vested in Khewil. As it has been held that title in the a'king land has vested in the present plaintiff, the names of the defendants cannot stand in the register of nokmas in respect of the said a'king. It is further directed that the members of the 'Sko Me'chik' clan should now select the nokma of the Boldamgre a'king in accordance with the customary law of the Garos.

In the circumstances, the judgement and order of the Judicial Officer, District Council Court, Garo Hills District Council passed in Miscellenous Appeal No.6 of 1966 are set aside.

The petition is allowed. But in the entire facts and circumstances of the case, we pass no order as to costs,-(Civil Revision No.10(H) of 1967).

Case No.39 - This petition is by way of revision from the order of the Learned Deputy Commissioner, Garo Hills, dated 2.4.52 deciding a dispute between one Donje Mechik of Asugiri and Wari Mechik of Sandong. The dispute was with regard to an Amathe Akhing which was claimed by both the parties. The learned Deputy Commissioner, Mr.S.C.Kagti explains what an Amathe Akhing is in the following lines :

"Originally a Nokma's Akhing is confined to one village and its surrounding lands. But some Nokmas claim ownership of land situated in order villages and separated from their own Akhings by other Akhings. These plots of lands separated from

the main Akhing are called Amathe Akhing." The case was first instituted in the court of the Assistant to the Deputy Commissioner, but subsequently, it was taken up by the Deputy Commissioner himself for decision, parties having refused to take the matter to Panchayat through so advised by the Court. The learned Deputy Commissioner examined parties and their witnesses and he had come to the finding that Donje Mechik had failed to establish her title with respect to the land in dispute. The learned Deputy Commissioner observe at one place that Donje Mechik's claim to the particular land was rejected in 1942 by Mr. Shaw, the then Deputy Commissioner and that she should not be allowed to make the same claim for the second time in the court of law. He further found on evidence that it was admitted by Donje and her people that Khadaram, the husband of Wari Mechik possessed this land forcibly from time to time. One Dirang Nokma of the adjoining. Asinggiri Akhing has further deposed that he never saw Donje cultivating this land but saw Khadaram possessing it for one year about seven years ago. Chagnsan Marak also supports Dirang Nokma.

The advocate appearing for the petitioner has urged that the learned Deputy Commissioner was wrong in construing the order of Mr. Shaw passed in 1942 that it amounted to rejection of Donje Mechik's claim to the land in suit. He further contended that the order of Mr. Peters passed in Akhing Case No. 171 of 1945-46 was more conclusive and it was in favour of the petitioner Donje Mechik. This order was also placed before the court and the court inclined to accept the view taken by the learned

Deputy Commissioner, Mr.Kagti that this order by Mr.Peters did not amount to negating Khadaram's claim to the land altogether but he was only asked to keep off the Akhing till such time as he could substantiate his claim by reliable evidence. The advocate does not seriously contest that there was no evidence to come to the findings as has been done by the learned Deputy Commissioner, but he contends that Mr.Peter's order ought to have been taken as conclusive and binding between the parties to this litigation.

After hearing the learned Advocate for the petitioner, and perusal of the records, the learned Deputy Commissioner was quite justified in holding the view that he has done to the effect that Donje has failed to prove her case and in Deputy Commissioner's opinion, her claim to the land was rightly dismissed. It is needless to go into the details as to facts when the findings are based on evidence. The advocate only legal contention was that the matter ought to have been referred to the Panchayat under Rule 31 of the Rules for the Administration of Justice and Police in the Garo Hills District, but that contention has no substance as he found from the record that his client refused to take the matter to the panchayat when asked by the Court. There was no other legal objection. The order of the Deputy Commissioner was therefore, upheld and the Rule discharged, (Civil Revision No.71(H) of 1952).

A'jikse is a land of two clans that is, the mother and father's clans. It is the land of both the husband's and wife's clans. After the death of the mother and the father, the

nokkroms husband and wife succeed to the land in the name of both the clans. Since the Garo nokkrom daughter marries her father's nephew, it is not a problem in inheriting such lands.

A'millam is a land which is a booty of war between the clans and villages. This kind of land is nobody's land and the Government does not recognize it as a kind of land.

A'king disputes: As we have seen that there are different types of a'king land available in the Garo Hills, the nature of disputes are also many. The disputes are mostly regarding the possession of land by right or by force and between the nokmas and the villagers. These a'king disputes are not tried or decided by the concerned Village Courts but brought to the District Council Court where the Revenue Member and the District Council has the sole authority of settling the matter. In case of appeal, of course, the petitioners can go to the higher courts, even to the High Court in Guwahati. At present, Shillong has its bench of the High Court of Guwahati for the whole of Meghalaya State.

Case No.40 - A dispute arose between Khilja Nokma and Chigam Nokma relating to the boundary between their akhings, which was referred to the arbitrators for adjudication by the Panchayat under Rule 31 of the Rules for the Administration of Justice and Police in the Garo Hills, 1937. Each of the parties nominated three members and an umpire was also elected with the consent of the parties. One of the members of the Panchayat died and another member was substituted in his place and the umpire was also changed. The board so formed subsequently, received the

approval of both the parties; and the Panchayat so constituted, filed its award which was accepted by the Court. There was a division of opinion amongst the members of the Panchayat, but the Umpire with three of the members formed the majority. The award was against Chigam Nokma who was later succeeded by Jajan Marak as the full-fledged nokma in his place.

Jajan Nokma raised an objection that the original set of Arbitrators was chosen by Chigam Nokma and his opponent and that he (Jajan Marak) had no hand in the matter of nomination of Arbitrators on his behalf, and so the award given by the Arbitrators was not binding on him.

There is admittedly no challenge as to the validity of the award by Chigam and as such his successor is bound by any award or decree that would have been valid against Chigam. In a place like Garo Hills, where the legal procedure is very imperfect to speak the least, the Courts should see whether there has been any violation of the spirit of the law and consequent failure of justice. In this case, no violation of the law has been pointed out and I agree with the finding of the Assistant to the Deputy Commissioner that there has been no irregularity worth the name which vitiated the trial or adjudication by the Panchayat. The Rules of the Administration of Justice (Civil) having favoured a decision by the Panchayat in cases where the contending parties are indigenous inhabitants of the district of Garo Hills, I think it to be fair and just that the award should be accepted as final. In this view and according to Rule 31, the appeal before the Deputy Commissioner was incompetent and he was perfectly

justified in dismissing the appeal filed on behalf of the present Petitioner.

This is a petition of revision filed under Rule 35 of the Rules for the Administration of Justice (Civil) in the Garo Hills District against the order of the Deputy Commissioner of Garo Hills dated 12.6.51 dismissing the appeal filed on behalf of the present petitioner, Jajan Marak Nokma.

The matter arose out of civil dispute between the two Nokmas-Khilja Nokma and Chigam Nokma, wherein Khilja Nokma of Kalupara Akhing alleged that there has been some dispute as to the boundary between his Akhing and that of Dapgiri Akhing of which Chigam was the Nokma and he claimed a portion of the land included in Dapgiri Akhing as was separately indicated in the sketch map filed. The matter was referred to Arbitration for Adjudication by the Panchayat as provided under Rule 31 of the Rules for the Administration of Justice (Civil) in the Garo Hills and each of the parties nominated three members and an Umpire was also elected with the consent of both the parties. One of the members of the Panchayat being dead, there was a substitute in place of the deceased member and the Umpire was also changed. The subsequent board so formed received the approval of both the parties and the Panchayat so constituted, filed its award which was accepted by the Court. There was a division of opinion amongst the members of the Panchayat, the Umpire with three of the members formed the majority and the other three were dissentients. The Court accepted the award as sponsored by the Umpire as provided under Rule 31. The award was against Chigam Nokma and Jajan Marak, the

later being also party to the proceeding. At the time of the award, it is alleged that Chigam was dead and Jajan was the full-fledged Nokma in his place. Jajan Nokma, as he then was, took objection as to the validity of the award on the ground of irregularity but the learned Assistant to the Deputy Commissioner found that the 'bichar' (adjudication) by the Panchayat was legal and witnesses were examined and the land in question was visited and the rough sketch map was also prepared by the members nominated by both sides and the Umpire. The only thing was that there was a difference to opinion amongst the members of the Panchayat but there was no allegation of corruption or concealment of fact or any such thing which would make the award invalid according to the provisions of the Civil Procedure Code or the Arbitration Act. The Indian Arbitration Act had no application to the Garo Hills and the spirit of the Civil Procedure Code has to be applied. The learned Assistant to the Deputy Commissioner found that the Panchayat (Bichar) was held according to law. On appeal, the learned Deputy Commissioner accepted the finding of his Assistant and dismissed the appeal as incompetent because of the bar prescribed in Rule 31 of the Rules for the Administration of Justice (Civil) in the Garo Hills.

The advocate appearing for the petitioner submitted that the original set of Arbitrators was chosen by Chigam Nokma and his opponent and that Jajan Marak had no hand in the matter of nominating the members on his behalf constituting the Panchayat. In that light, he contends that the award given by the Arbitrators is not binding on Jajan Nokma. Mr. Sen however, admits that Jajan takes the place of Chigam as Nokma after the latter's death and succeeds to his interest in the Akhing. Mr. Gupta appearing for

the opposite Party contends on the other hand that Jajan Marak was a party to the proceeding from the beginning and he with Chigam filed a joint statement with the thumb impressions of both of them given in the said statement and it cannot be said that Jajan had no knowledge either about the constitution of the Panchayat or that he had no consent in the matter of appointing the set of Arbitrators. There is another objection to the validity of advocates contention and it is this:- that assuming Jajan had no hand in the matter of selecting the members of the Panchayat he was bound by what his predecessor in interest did. There is admittedly no challenge as to the validity of the award by Chigam and as such his successor is bound by any award or decree that would have been valid against Chigam. In a place like Garo Hills, where the legal procedure is very imperfect to speak the least, the Courts should see whether there has been any violation of the spirit of the law and consequent failure of justice. In this case, no violation of the law has been pointed out and I agree with the finding of the Assistant to the Deputy Commissioner that there has been no irregularity worth the name which vitiated the trial or adjudication by the Panchayat. The Rules of the Administration of Justice (Civil) having favoured a decision by the Panchayat in cases where the contending parties are indigenous inhabitants of the district of Garo Hills. In this view and according to Rule 31 the appeal before the Deputy Commissioner was incompetent and he was perfectly justified in dismissing the appeal filed on behalf of the present petitioner. The Rule is accordingly discharged and the petitioner is to pay Rs.32/- as costs, (Civil Revision No.188 (H) of 1951).

Case No.41 - Shillong, the 15th December, 1934. Read a petition of Revision dated the 17th July 1934 from Ajeng Nokma of Marakgiri, Garo Hills against the order of the Commissioner, Assam Valley Division dated the 21st August 1933, in Miscellaneous Appeal No.101 of 1933, in the matter of sale of a part of the Marakgiri Akhing in the Garo Hills.

Read also the records of cases forwarded with letter No.570-Rs, dated the 25th August 1934 from the Commissioner, Assam Valley Division.

Order The Governor in Council heard Taraprosawna Lahiri, B.L., for the appellant Ajeng Nokma and Rai Bahadur Kali Charan Sen, B.L. for the respondent Gongsin nokma. This matter has been the subject of Litigation for a long time.

The Governor in Council has been referred back as far as 1924 to orders of Mr. Walker. But they are not exactly relevant as the particular matter now under consideration was not in issue. The first time that the matter came really into issue was in the time of Mr. Patton, Deputy Commissioner, in the year 1927-28. There was a question then of boundaries and Mr. Patton called on the Mouzadar, one Kakong, for a report regarding the whole position of the akhing in question. The mouzadar reported that the akhing had been occupied by one Jengal Sangma belonging to one particular clan and Jarin Phisin Belonging to another clan. "These two Nokmas" went on the report, "are of clan Chambugong Dinajek and of clan Chambugong Rabha and the akhing is owned by them both" Mr. Patton "Approved" of this report by his order

dated the 19th July 1927. So the rested for the time.

In 1929-30 when Mr. Parry was Deputy Commissioner Jari Phisin, predecessor of the present petitioner Ajeng, applied to Mr. Parry for a partition of the AkHING. The Deputy Commissioner called on the Mouzadar to report whether Jarin's akHING should be divided or whether he had any akHING. The Mouzadar reported then that he was unable to make a partition as the clans did not want it. On this Mr. Parry, who also himself made a separate enquiry and took evidence of his own passed an order dated the 6th February 1930 in the course of which he held "It would seem that Gongsin (Successor of Jengal Sangma) is the Nokma of the Chambugong Dinajek and these two clans have held the akHING jointly for many years. No partition appears to be necessary." In a further order dated the 10th February Mr. Parry added "when a boundary paper is issued, it will be issued jointly in the names of Gongsin and Jarin and a copy will be issued to each of them-." Up to that point therefore the findings of the two Deputy Commissioners were that the akHING was held jointly by the nokmas of the two clans.

An appeal was made by Gongsin against the Deputy Commissioner's order of the 10th February 1930 and the Commissioner, Mr. Bentinck, passed orders on the appeal dated the 5th July 1930. This order of the Commissioner is really the root of the trouble now. He considered Mr. Patton's order "approved" written on the Mouzadar's report as a slovenly way of doing business, which indeed it is, and he aimed at finding out what exactly

it was that Mr. Patton had "approved". He concluded that "all that Mr. Patton approved was that the akhing should be shown as one on the map as the mouzadar had shown it." He held that the existence of joint nokmas in a single akhing is contrary to the usual practice and if Jarin claimed a separate akhing and an independent nokmaship it was for him to prove it and his final order was <sup>as</sup> follows.

"The effect of this order will be to cancel the note dated the 10th February 1930 attached to Mr. Parry's order of the 6th February 1930."

It will be seen here that the Commissioner ignored altogether Mr. Parry's own finding of the 6th February that Gongsin is the nokma of Chambugong Dinajek and Jarin of the Chambugong Rabha and that two clans have held the akhing jointly for many years.

It is not surprising that further dispute arose in the interpretation of the Commissioner's order. In 1932 Gongsin, who was in debt applied for sale of part of the akhing; objection was at once made by Ajeng successor of Jarin, that he had a joint interest in the akhing and it could not be sold. Mr. Mehta, who had by this time become Deputy Commissioner examined the Commissioner order and held that the previous claim made by Jarin of joint interest in the akhing which appeared in Mr. Parry's order of the 6th February had not been totally set aside by the Commissioner and it was not clear that Gongsin alone was the nokma of the whole akhing. In view therefore of this doubtful position he did not consider it proper to allow the sale of part

of the akhing which would lead, in his opinion, to endless quarrels. Against this order there was apparently at the time no appeal. But for some reason which is not clear a fresh application for sale was made by Gongsin. This was dealt with by Mr. Mehta's successor, Mr. Shaw, who held that it was not open to him in the face of his predecessor's order to allow the sale. Immediate appeal was not made against Mr. Mehta's order, but an appeal was filed, out of time certainly, before the Commissioner on the 3rd of May and again the Commissioner, Mr. Bentinck, considered the position. In his order of the 21st August he referred to his previous order and said that he had "then held that the custom of joint akhing being, if they existed at all, the exception, the claim could not be recognised until it was proved. It has not been proved and no attempt has ever been to prove it. He therefore set aside the order forbidding the sale of the akhing."

The Commissioner's second order expressly depends on his first order, viz. the order of the 5th July 1930. In that order he had argued that nothing whatever had been said in the original report made to Mr. Patton about either nokma having joint rights over the whole akhing or about Gongsin and Jarin being colleagues or to define what the Rights of each were, "the question", he said, "was not gone into then it has not as a straight issue been gone into since". Yet by his later order he allowed the sale of part of the akhing without the issue of joint interest over having been settled. In the face of Mr. Parry's finding and

of Mr. Patton's finding too, it is difficult to see why the representative of one of the original nokmas should be required to define what the rights of each nokma were. Clearly all the evidence shows that the akhing was owned by the two clans. Whether this ownership over the whole akhing was a joint owner or a separate ownership over individual parts may be open to question. But in the absence of any internal boundaries and in the absence of any partition the Governor in Council does not consider that the order to sell an undefined part of the akhing was a proper order.

For these reasons the Governor in Council accepts the petition and set aside the order of the Commissioner allowing the sale of part of the akhing, (Miscellaneous Appeal No. 101 of 1933).

Case No. 42 - This is an appeal against the order of the Deputy Commissioner of the Garo Hills, dated the 23rd April, 1938, refusing to revise his order, dated the 23rd March, 1938, directing the Nokma of the disputed Akhing, who is the husband of the appellant, to pay half the awil collected by him to the respondent, as joint nokma.

In 1927, to prevent disputes, regarding akhings and their boundaries, the Deputy Commissioner directed that maps should be prepared, boundaries recorded and the genealogies of the nokmas and their wives, through whom they held, should be recorded also. In accordance with this order, the names of Thaam Khoksi, husband of the appellant, and of Rache Mechik, the respondent, were

approved by the Deputy Commissioner as joint nokmas of the akhing in dispute. In 1935 the respondent went to the plains, and the Deputy Commissioner directed that unless she returned to it she would forfeit her share in the akhing according to the custom. She did return, and found that a certain sum was due to her on account of awil, collected since 1934 from Thaam. Hence she brought the claim now disputed by the appellant.

During the hearing of the case, Thaam admitted that the respondent was the joint nokma, that he had collected the awil in question, and that, as he had paid her nothing, the amount claim was due. On this admissions, the amount was decreed in the respondent's favour.

Strictly speaking, the appellant, has, by Garo custom no locus standi. It is true that, by Garo custom, the woman has sole proprietary right in property, and that the akhing is therefore the property of the appellant and not of Thaam. But the married woman has no control over her property, which vests entirely in her husband subject to certain restrictions in the matter of alienation. As regards akhings, Playfair (1909, p.72) in his monograph on the Garos, says, "A Nokma is always looked upon as the owner of the lands of the village, and though he must have revived his rights through his wife, she is never considered, unless it is found convenient that her name should be mentioned in litigation" Again, "she has full use of her property ..... , his authority with regard to it is unquestioned".

Therefore, the appellant has ordinarily no remedy against the use made for her property by her husband, except in the case of alienation, whom she would have the support of her clan or family, in the present case it is urged (1) that the report of the Mauzadar in 1927 was biased and that the respondent should never have been recorded as joint nokma, and (2) that the appellant is entitled to move in the event of misuse of her ancestral property by her husband, who is not proprietor but only the trustee. With regard to the first ground any objection against the orders of the Deputy Commissioner passed in 1927 should have been made earlier. Even if the appellant was not aware of those orders then, which is not to be believed, her husband certainly was. There can also be little doubt that both she and her husband were aware of the orders of the Deputy Commissioner in 1935, directing the respondent to return to the akhing if she wished to share the awil. Any claim against the share of the respondent in the akhing, therefore, is barred by limitation. As regards the contention, that the appellant's husband is, by admitting liability for payment of the half share of the awil to the respondent, alienating her property, this too amounts to nothing more than an appeal against the orders of 1927. Nor are these orders affected by the allegation put forward by the learned pleader for the appellant that the genealogy is incorrect unimportant details.

It has been pointed out that, if the appellant has no locus standi as being a woman, the respondent has none either, as she is a woman, but the appellant has a husband, and, as has been

pointed out, he takes her place absolutely and excludes her as manager of the property. The respondent was a widow, and until she remarried or the property passes to her daughter or heir, she was entitled to manage it. This had been recognised by the Deputy Commissioner in appointing her as joint Nokma.

It was commented that the Deputy Commissioner was quite correct in pointing out that if the orders of 1927 are allowed to be questioned, or if women are permitted to appeal against the actions of their husbands as trustees of their properties, the floodgate will be opened to a spate of litigation in a tribe so litigious as the Garos. This in itself was no reason for dismissing the appeal. But the appellant had no ground to stand on, for the reasons given above. The appeal was dismissed, (Miscellaneous Appeal No.34 of 1938).

In a similar case filed for the redemption of some mortgaged a'king. It was the nokma and the nokkrom of the house who had mortgaged the a'king. They succeeded to the nokmaship and the right of redemption devolved on them.

Both the Courts of the District Council affirmed the order as the Civil Court had no jurisdiction to entertain the appeal in view of the Amending Act (Act No. of 1959).

However, the suit from which the case arises involves disputes with regard to the right to succession to nokmaship of an a'king. The plaintiffs claimed the right to succeed to the nokmaship and consequently, claimed their right of redemption of

mortgaged a'king, while defendants claim the rights for themselves. This suit therefore involved questions of substantive rights based on Garo customary laws.

The determination of a dispute involves adjudication of a substantive right as well as the application of a procedure to be followed in the adjudication. Adjudication of a suit within the perview of the Customs and Usages Validating Act involved adjudication of a substantive right to an a'king or succession to nokmaship, as in this case, as well as a procedure to be followed in the adjudication.

A suit of civil nature is cognizable under section 9 of the Code, but the Code including its spirit has been eliminated by Section 8 of the Customs and Usages Validating Act by implication the trial of a suit by the Civil Court is not possible without the adoption of a procedure. Suits falling within the perview of the provisions of the Customs and Usages Validating Act are of necessity barred from the cognizance of the Civil Courts. Such suits can be tried only by adopting the procedure laid down under Section 8(1) of the Act. Therefore, it is told that the trial of suits in question by the Civil Court are barred and the matter had been dismissed.

#### Criminal Laws:

Before the advent of the British, Garos settled all the criminal matters in one solution. Killing was only way of resolving any dispute leading to the criminal matters. The Britishers could not stop this type of killing of each other for

any slightest dispute. It took a long time and with the demonstration of gun and bullet, they could succeed to put a stop to it after the Garo Hills became a district in 1869. Thus, the laskar is appointed to look into the civil and criminal nature of disputes in the village. If it is a purely criminal nature, the matter is reported to the Deputy Commissioner at Tura and disposed there. There are cases which are not serious and settled by the village nokma and laskar to be fined upto the amount not exceeding Rs.50/-; injury to property not exceeding Rs.50/-; injury to persons not endangering life or limb; house trespass; affronts of whatever kind; gambling and drunken or disorderly brawling (Milton Sangma, 1981, p.187).

The cases are taken to the village courts which dispose off the cases and settle disputes within its jurisdiction. The cases are in the following:-

(1) Assault (doka); (2) Quarrel leads to fighting (gisea dokgrika); (3) Beaten up (Ka'onange doka); (4) Intent to kill (ka'dona); (5) Forcibly enter the house and beat up (noko napdrae doka); (6) Murder (Dena su'a); and (7) Head hunting (sko sota).

Case No.43 - It was an application under Section 482 of the Code of Criminal Procedure, 1973, read with Article 227 of the Constitution of India by the eight petitioners, who have been sought to be prosecuted under section 182 read with Section 109 of the Penal Code. On 10.9.69, one Raman Sangma made an application to the Deputy Commissioner, Garo Hills, Tura. It was registered as Misc. Case No.54 of 1969. His allegation was that

Emithson Marak, opposite Party No.2 to this petition, had murdered one Bagot Momin of Mitapgiri in 1967 and prayed for necessary action. The matter was enquired into. On enquiry it was found that the allegation was false and the person who had been allegedly murdered was found to be alive. Thereafter one L.B. Yadev, Officer-in-charge of Dalu Police Station, submitted a report dated 12.5.71 to the Additional District Magistrate, Garo Hills wherein he stated that the allegations of Raman Sangma were false and that Bagot Momin alleged to have been murdered was found alive. He prayed for prosecuting the petitioners under section 182/109 of the Penal Code.

On receipt of the above report the Additional District Magistrate passed the following order dated 20.7.71:

"Seen Police report. There is prima facie case against the accused persons under section 182/109 I.P.C. Summon the accused persons

.....".

In other words the learned Additional District Magistrate took cognisance of the case on 20.7.71 on the report of the Officer-in-Charge Dalu Police Station.

The petitioners raised an objection before the Magistrate that he had no jurisdiction to take cognizance of the case but the objection was overruled. They then preferred an appeal before the Additional Deputy Commissioner against the order of the Magistrate but the learned Additional Deputy Commissioner upheld the order of the Magistrate. Hence this application by the petitioners.

Shri B.M.Mahanta, the learned counsel appearing for the petitioners, submits that the learned Additional District Magistrate had no jurisdiction to take cognizance of the case as he did by his impugned order dated 20.7.71 ~~inasmuch as~~; he submits, there was no complaint by the Deputy Commissioner who was the public servant concerned as required by Section 195(1)(a) of the Code of Criminal Procedure, 1898, (hereinafter called 'the Code') which is admittedly applicable to the present case.

Section 190 of the Code lays down the conditions requisite for the initiation of proceedings. The material portion of Section 190 is in the following terms:-

"190. (1) Except as hereinafter provided any..... District Magistrate, Sub-Divisional Magistrate or any other Magistrate specially empowered in this behalf may take cognizance of any offence -

- (a) upon receiving a complaint of facts which constitute such offence;
- (b) Upon a report in writing of such facts made by any police officer;
- (c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion that such offence has been committed."

From the facts and circumstances referred to above, indisputably the Magistrate took cognizance of the case under section 190(1)(b) of the Code. Admittedly the petitioners were sought to be prosecuted primarily under section 182 of the Penal Code which provides-

"Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby

cause, such public servant -

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts representing which such information is given were known by him, or

(b) to use lawful power of such public servant to the injury or annoyance of any person, shall be punished.....".

Section 195(1)(a) of the Code provides :

"No Court shall take cognizance -

(b) of any offence punishable under section 1972 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate."

A perusal of Sections 190(1) and 195 (1)(a) of the Code clearly shows that the Magistrate before taking cognizance of any offence under Section 182 Indian Penal Code has also to comply with Section 195(1)(a) of the Code. In other words, a Magistrate cannot take cognizance of an offence under section 182 Indian Penal Code without a complaint in writing by the Deputy Commissioner or some other public servant subordinate to him of the facts constituting the offence. In the instant case, the complaint which has been found to be false was made by Raman Sangma to the Deputy Commissioner. The Deputy Commissioner or some public servant subordinate to him, therefore, had to make a complaint for prosecution under Section 182 of the Penal Code; and then only the Magistrate could take cognizance of the case. In my opinion, the learned Additional District Magistrate had no jurisdiction to take cognizance of the case as he did by his order dated 20.7.71.

Mr. A.K. Bhattacharyya, the learned counsel appearing for opposite party No.2 and Mr. A. Sarma, the learned counsel appearing for the State of Meghalaya submit that the Criminal Procedure Code as such does not apply to the district of Garo Hills but only its spirit applies. But a distinction has to be made between the 'spirit' and the 'substance' of the code. In my opinion the spirit of the code will apply only when its formal or procedural part is concerned; but the letters of the code has to be followed when it gives jurisdiction to a Court. Taking cognizance of a case by a particular Court, in my opinion, is not a formal matter and the spirit of the Code can be applied. It is a vital matter and the letters of the Code are to be followed.

In the result, this application is allowed and C.R. Case No.752 of 1971: State Vs. Roman Sangma and others, pending before the Sub-Divisional Officer and Magistrate First Class, Tura, is quashed. The Rule is made absolute.

If no advised, the aggrieved party may proceed for the prosecution of the petitioners in accordance with law, (Criminal Revision No.170 of 1974).

Similarly all the reported cases in the courts are settled with the Criminal Procedure Code since the beginning of Indian Independence and under the Sixth Schedule of the Constitution of India.

CHAPTER V: EMERGING CONFLICTS

- (1) Changing Customs and Modernization
- (11) Education and its Role
- (111) Legislative Reforms
- (IV) Future of Traditional Laws.

### Emerging Conflicts-

The Garo have been rather apprehensive of the dominant neighbouring population. And their apprehensions were not baseless since the dominant group with its imposing facade of great antiquity, historicity and tremendous force of adaptability was fast turning into a reference group for the Garos. This threatened the very structure of the society. It appears that the Garos have made conscious efforts so that the culture, language of the dominant society does not infiltrate into their own society. This consciousness was the prime factor which helped in retaining their customs and practices to a great extent. The other factors which were equally significant in this venture was the nationalistic fervour sweeping the entire Indian subcontinent. From north-eastern region the Garos had a significant contribution towards leadership in the political field. Wherein, one of the main strategies adopted after Independence was self appraisal and appreciation for what was indigenous and this largely resulted in reinstatement of the tribal and folk ways which were being shelved in face of the colonial rule.

Like other human groups Garos too give the highest valuation to land. Though the ownership is communal to some extent, yet the family which holds the right to distribute the a'king land for cultivation by individual family members. Yet, each owner of the a'king land is always trying to expand the

the boundaries of his a'king. This increased the hostility between two villages and they had always to be in guard against the attack by the other. For maintaining a strong and alert front the people of the village always had to stay united. The Garos believe justice in practice. At village level they try not to deviate from the norms and accept the verdict of the elders in case of dispute. In order to maintain cohesion at the village level the entire social control and authority pattern was vested with firstly the family elders and then on the clan elders. The members of the máchong and mahari being in the supreme control of family affairs and answerable only to the nokma. Thus the customary law of these people though a oral tradition was perfectly organised with a solution to every minor deviance from the normal. Yet, sometimes rivalry extended to such a limit that beheading remained the only recourse in the path of justice.

With the coming of the British Colonials the persons who gave judgement in the Garo cases were never fully conversant with the Garo customary law and practices. Most of their decisions were based on their understanding of the modern law of jurisprudence. And often the judgement given for cases brought to the court were not in accordance to the value system of the people. A few conscientious administrators who tried to understand the customary laws were largely handicapped by their language and value systems of the Garos which was set apart from their own. Even now the situation has not changed significantly. The lawyers who deal with the cases

read the English translations of the original Garo, without having a first hand knowledge of Garo. Incase there had been a good number of Garo lawyers, they could have presented the cases with suitable reference to the Garo customary law, but there are not enough Garo lawyers. And inspite having provision in Indian Constitution, they are not being benefitted but it.

The coming of Christianity and adoption of the same by the people was <sup>it</sup>early responsible for giving rise to conflicting situation, Christianity not only tempered with their spiritual world but its tentacles engulfed the socio-cultural spheres of the community. To begin with for example the sense of shame, guilt and sin which were reserved for various specific occasions in the life of a Garo become his garb. He not only started covering his body out of his shame but opted for features and items for remove from his cultural domain. He learnt to read and write in a foreign language, dressed himself in trousers and shirts, accepted Christianity and almost in toto accepted Christian way of life. Writing on this aspect of north-east Roy and Rizvi (1990, p.23 to 24) have given an elaborates analysis as given below,

"A lot has been said and written about tribal religion, most of which had been simplistic derivations from the anthropologists' field notes. This resulted in widespread misinterpretation like labelling the tribal religion as 'animistic' by the earlier evolutionists. On reviewing the tribal

religion we come to the understanding that in the tribal world religion was not simply meant for the spiritual atonement of man but helping man to combat nature for his day-to-day existence, i.e., it largely served the pragmatic needs of man. Thus man had created around himself an entire universe consisting of spirits and demons with a supreme creator reigning above them. By personalising the inanimate objects the world view of the tribal distinctly demarcated between two distinctive set of behaviour one which was sanctioned by the spirit world and the other which was disapproved by the superhuman powers. In this regard the do's and dont's of the tribal world was not confined within the purview of the prayer timings or annual sacrifices. But it inadvertently regulated the mundane affairs of the people, from the eating habits to felling of the trees, marriage pattern and distribution of land including succession of office thereby all were bound under one of the spirits. The digression from the normal sanctioned pattern disturbed the balance of the world of the spirits and contribute to regularize the behaviour pattern. Hence the sacrifices, taboos, dance, rituals and feastings were not part of tribal entertainment to break away from the daily monotony but were actually the core aspects of tribal living.

Wherein the tribal world view granted a spiritual sanction to the behaviour of man in the process the behaviour being regularized and granted the status of sanctioned custom. The constant fear of adversities of mature and continued confrontation with them for survival further strengthened their understanding and belief in the superhuman forces. Thus the interrelatedness of tribal social norms, economic pursuits and religious pattern is so intense and rigid that an attempt in trying to understand any of these institutions separately with the omission of the others would amount to academic sacrilege. Hence even to understand their legal pattern one has to understand their religious sanctions. The imposition of the other religions like Christianity, Hinduism and Buddhism has effected them only on the fringe like attending the weekly sermons and the change of attire.

But their belief pattern and value system remain intact and unchanged since the naturalistic phenomena such as the sun, the moon, the wind and the rain still remain significant for their day-to-day living and the technological advancement has not been able to blow away the myths and mysticism surrounding each of these natural phenomena. Even today the most educated and advanced men from these regions on falling ill approach at first the local medicine man rather than going to the doctor. Hence logic and philosophy had to be kept aside since even today the tribals live enveloped entirely by nature in its pristine form. He has successfully coerced nature and coexisted with it for centuries understanding, it, appeasing it and utilizing it for his own survival."

On considering the vital institution of marriage in Garo society we find that every Garo is entitled to marry since marriage is recognised as one of the important social institutions in Garo society. Their society is devoid of widow and widower since the Garo customary practices make provision for

onsonga i.e., remarriage of the widow and widower. However, sororate form of marriage is not customary. Instead on the death of the wife it is the duty of the wife's mahari to provide an alternative wife to the widower; if the alternative wife happens to be his wife's sister it would amount to sororate marriage. On addition a man cannot marry again or acquire a wife, without the expressive consent of a living wife and her chras. Since the first wife's mahari would never tolerate the loss of their right over the property ownership to heiress of another mahari. Eventually if the man desires to marry a second time, with a woman belonging to another mahari, he is expected to seek separation from his heiress wife; thus renouncing the right of retaining the managerial authority over his principal wife's properties. Thus a man can obtain his subsidiary wives only from the wife's lineage with due consent from the first wife and the chras. Incase the principal wife and chras do not agree to provide him another wife and if he is adamant to marry again then a divorce becomes inevitable. In such case where there are more than one wife living under the same roof, the principal wife (jik ma'mong or jik mongma) occupies a superior position and her advice in all family matters is binding. When a man marries his widowed mother-in-law or his deceased's uncles's widow she is always treated as jik ma'mong as long as she survives although her marriage is subsequent to the man's first marriage. The underlying 'Akim' principle of such marriages is that no one should remain without a mate for a long time, since such bonds also unite

two ma'chong or mahari through a unit of family i.e., nok. Once a family comes into existence after the marriage of a man and woman of appropriate lineages and in conformity with the existing rules of exogamy, the nok must continue till the contracting ma'chong or mahari decides to serve their 'Akim' bonds which are considered to be sacred according to the Garo traditions. It's important to note here that the married couple shares the responsibility of aged and incapacitated parents in old age. Here it should be added that while the heir designate must marry someone from her father's lineage and preferably her father's sisters' son, the other girls or a'gate are not normally bound to marry a kin of their father. They can exercise their choice.

On reviewing the above particulars of marriage in Garo society one is tempted to derive certain conclusions. Firstly, the society draws a clear cut equation between women, wealth and social control. "In agrarian societies where land is the most significant form of property, communities (or households) with land access many typically be expected to try and ensure that it remains within their control. Beginning with this promise, and examining how this control has been exercised among communities which customarily recognised female rights in land, among the significant factors are found to be post-marital residence location, choice of marriage partners, and conditions of remarriage....." (Agarwal, B. 1988, p.55). Even in patrilineal communities like the Asna Asariya of Lucknow, Roy (1984, p.396) refers to the local proverb of "Jhagre Ki jad

teen; zar, zan aur zamin" i.e., "Root cause of any conflict in either wealth, women or land" and concludes her study by saying, "that here is the agrarian-based community of the Asna-Ashariya who has ingeniously made good use of the Islamic sanction of cousin-marriage that helps them retain their land. They have adopted the customs of mayke-aana whereby women keep maintaining a close tie with their parental home, receiving yearly prestations and thereby strengthening both economic and emotional bond of interpersonal relationship. Similarly in the case of the Garos the intervention and responsibility of the chra and mahari with respect to settlement of marriage, providing the second wife to nokma are all pointing towards one aspect of the society the maintenance of landed property within one clan, thereby restricting the choice of mate, rules of residence. However, the woman merely has the ownership of the land the managerial powers are vested with her husband which is also being recorded. Since, for the heiress daughter cross-cousin marriage is prescribed hence, on death of the uncle i.e., mother's brother the nephew marries the uncle's widow, thereby, also bringing into wedlock his young cross-cousin. In case, the widow does not have a girl child of her own then the mahari provides the widow with a young girl as additional wife. This additional wife may either be the daughter of the widow or any other girl from her mahari. Thereby, hinting that women are the next precious commodity for the Garos hence, marriage of the girls is viewed with all seriousness since the landed property is attached with her. Thus conflict situation and litigation always arises when the

mahari or chra's authority is overlooked, or the decisions made by them are not conformed to by the individual. Since the ownership of land is dependent upon the heiress daughter, wherein, the interest of the clan lies hence, minor marital differences, untoward advances made by a married partner are being brought up in front of the mahari elders who try to settle it amicably largely to put a stop to future separation. Separation and divorce necessarily entails loss of managerial help, the post which is documented and recorded along with name of the heiress. The social structure takes the ultimate step of mother-in-law marriage to ensure the maintenance of land within the same clan. Way back in 1955 Bhahananda Mukherjee found that 64% of the marriages of men for nokmaship was mother-in-law marriage out of which 50% of the mother-in-laws have reproduced. The principle underlying the marriage with widowed mother-in-law is primarily based on the Garo system of inheritance and control over the family property by the two ma'chongs of the spouses. The right acquired by the nokkrom by marrying the noknadona is further strengthened by marriage with the widowed mother-in-law. The daughter, however, never has to marry her father, though she is a successor to the mother. Chie-nakane (1967:p.47) puts it as "when the nokna's father dies the nokrom must marry the nokna's mother, because the ownership of the property of the nok is still retained by his mother-in-law and not by his wife, and will remain so, as long as she is alive. The headship goes with the marriage relationship to the owner of the property.

Therefore, in order to succeed to his father-in-law's position the nokrom must marry his mother-in-law. In case, a nokna has been appointed she becomes the successor to her dead mother. The new wife of her father cannot succeed the deceased wife in possession of property. All these factors give rise to multiple causes for dispute, which are first brought to the meeting of elders of the mahari and machong. The parties on not being satisfied with the justice rendered by the traditional council approach the district court and high court.

Inheritance and succession are the two most debatable and disputed aspect of Garo social organisation. In spite of acceptance of Christianity the Garos followed their customary sanctions and generations after generations they flocked the gates of the court to attain justice. Case No.1 is a classic example of this wherein the entire family being Christians abided by the rules of nonaship and ultimately even the court decided the case for the daughter who had been nominated by mahari. The cases 4, 5 and 6 demonstrate the heiress daughter who inherits the property has to be completely abiding by the mahari sanctions and should be fully aware of the obligations and duties within her family. Thus emphasizing the prominence and predominance of nok in the Garo social set up. As evident from the case no.7 multiple marriages and social sanction accorded to the women to remarry gives rise to complications and tussle between the daughters of different

wives, since, the mahari becomes a localised body rendering judgement and sometimes the varied maharis fighting abreast for their respective member cannot assert enough weightage, with the result that the parties under dispute find it more convenient to go to a body or court which would decide their case objectively since they are from altogether different social universe and apparently believe that they are going to impart justice objectively and impartially. Succession is an area where most of the cases are against the men. The men are not entitled even to take away property from the house of mother or wife even if he does, he has to return them, yet ironically a wife can claim maintenance from a estranged husband as the 1968 case from AIR demonstrated. Cases 8, 9 and 10 only delineate that during life time the husband can enjoy the property, on his death it goes to the daughter. As the case no.14 suggests that the geneological table of the nokna and nokkrom is like a legal, sanctified document and no encroachment is allowed in this regards in other words the names of the wives from other mahari and chra cannot be added in the geneology table since it would mean sharing of the property by the members of another mahari which is not conducive for the interest of the primary kin group. Hence, the daughter of the first wife will fight against her step-mother from another mahari nail and tooth to get her step-mother's name erased out from the geneological chart. Thus on the one hand the society sanctions numerous ways of acquiring mate yet, the mahari is the ultimate body which makes the last decision for selection of a mate specially

for the nokna. This is mainly because on this decision rests the sustenances of an entire kin group which has to preserve all that it had gained from their predecessors but also to multiply some assets. Since, the fields of jhum cultivation are all under the charge of nokna through the rules of Aking land. However, viewing the entire social set up in retrospect one finds that the amount of leniency allowed and practiced by the Garo social set up with respect to acquisition of mate has also made stringent rules as for a selection of mate for nokna is concerned, prescriptive mating is prescribed by the society. Besides, multiple marriages being allowed. Case no.23 brings forth the two major aspects of Garo judgement and justice wherein corporal punishment is resorted to by the members of the mahari. The second feature is adultery, this, is despised and punished by the traditional council, moreso, since the society is amply lenient and particularly broad based as regards marriage rules. The case no.24 fought in 1983 shows that even the widowed nokna has the right to receive a nokna husband from the prescribed clan, incase the mahari of the deceased nokna fail to provide her with another husband only then she is free to marry a person of another clan. Prolonged separation from wife also amount to legal offence and the man loses his noknaship this has been found in case no.28. As it has been seen that in case of any landed dispute laskar tries to mediate and helps the mahari to arrive at a solution. Similarly for criminal cases like theft, rape and murder the

sardar of the village is informed in the beginning and it is he who lodges the report at the police station. This is mainly to facilitate the villages situated in the interior to avail of the facilities of the police station. Interestingly even felling of trees within the boundaries of Aking and reserved forest is considered to be a crime according to Garo customary law. Violation of this tradition amounts to theft.

Regarding the socio-religious custom and their impingement by the Garos, dai is the easy way of making the common man comply to them. Any digression from the set rules of religion not only affects the individual but the wrath of the spirits and gods, also affect the other villagers. Hence, lifting up of the ritual drum and performing the sacrifices before sowing and other agricultural operations becomes an integral part of the society and every person has to abide by it .

During the entire tenure of field work in the two villages the most difficult aspect of the cross checking and validation of the data was lack of written records in the traditional council. The customary sanctions are all a part of the oral tradition and had been passed from generation to the next. Some of the books now written on Garo customary sanctions are not available to the local villagers nor it would necessarily be intelligible. Further, the various differences, which are brought to the platform of the mahari and chra are not recorded. The council meetings are prolonged with a lot of herbal exchanges which tend sometimes to lose sight of the

principle argument. Hence, when enquired upon, the mahari members could not narrate any case in a proper sequence, besides in recent past the mahari did not have any cases brought up to it. Yet, interestingly none of the villagers had to go to court. Hence, the cases from village proper are not referred within the compass of the thesis. Yet, the prevalence, practice and imposition of various kinds of punishment and dai have been validated from the interviews of the mahari members as well as the common villager. Being trained and educated up in the formal world of non Garos I too had been inclined towards records,. For which I went to the records of A.I.R. of last 100 years. Here, each of the cases were recorded which precisely presents the correct picture of each case keeping in view the sequence and order. That is its travails from mahari to the courts of Guwahati; in which manifestation and blending of tradition and modernity can be viewed side by side.

Another very important aspect which is being revealed from the village studies is that though Christianity has made inroads in Garo Hills it has been able to evade the basis of social systems only in the fringe the aspects of the society like marriage, divorce, total replacement of nokpante traditions by the modern school system. The succession, inheritance and marriage alliance for nokna remaining tradition bound. Most interestingly none of the residents of Te'bronggre and Wa'ramgre took up their differences to the court. It is not that the contesting groups did not threaten the opposite

party for taking their claim to court but actually the traditional councils always prevailed upon the situation and the differences settled within the kin groups. Classic example of it being nokmaship at Te'bronggre which got finalised as late on 1987 due to the non availability of a nephew. Hence, deviation from customary law is a far cry and not particularly marked in the villages under study. Though the villages have been exposed to the agents of change. After a careful analysis of the customary law it can be inferred that bonds and linkages between kin groups and marriage negotiations continually enhance the propagation of traditional system. The internal factors conducive to change include uneven demographic growth of different segments of the family, claims over succession and inheritance of properties, desire to mortgage land, development of new types of enterprises, changing conception about kinship are unable to dispell the firmness of kinship linkage and marriage. Besides, the marginal changes which are conspicuous do not pose any threat to the existence and operation of these traditional mean of social control. Further, the area being North-East even the court takes into account the customary sanctions. And as long as jhum cultivation would be practised for sustenance the authority of the nokma would remain for protecting the sking land for the villagers. The people who are educated conveniently stay away from the villages due to shift in the economic system. But those whose life is centered within the village ~~home~~ to abide by nokma's authority and the various other traditional means of social control. Thus they neither reject traditional norms nor deny state law but have best of both judiciaries which favours and protects their interest. And this has been adequately valida-

ted by the cited cases from the court.

Most of the matrimonial cases are divided into two categories one which are based on traditional religion and other on Christianity. If there was a dispute in the marriage performed according to traditional rites it was easier to settle it according to that religious practice. In Christian marriages one cannot marry twice without divorcing the former partner. If a man marries again without divorcing the former partner, he is guilty of bigamy. Sometimes a divorce case may take a very long time to settle, in the meanwhile the persons seeking divorce may be <sup>iv</sup> living with other partner as husband and wife.

The Garo customary law allows men to have any number of wives according to the circumstances. The nokmas usually marry four or five wives as the nokma's households have many activities to look after. Wives helped their husbands in carrying out the religious and agricultural activities and also in maintaining social order in the village. It is a customary rule for rich people to have as many wives as one can. There need not be a disharmony in the household owing to many wives and children.

At present, majority of the Garos have been converted to Christianity, so the traditional believers are in minority, and it appears that traditional religion may become extinct in the society. Owing to the conversion and modernisation the Garos know that they cannot go back to their primitive ways

and traditional religion. They think that their primitive religion is outdated and Christianity is a modern religion and should be accepted by the educated group. The Garos call those who practice traditional religion as Songsarak and which literally means unrecorded. Garos are very sensitive to this categorisation and that is why they are inclined towards the new religion and the culture propagated by it.

Traditionally, the nokma's position was connected with the indigeneous customary rites. His temporal and ritual powers in a traditional society were linked with his position. The conversion of a nokma to Christianity automatically lead to the loss of his ritualistic role. When the nokma's were endowed with real temporal power, the resistance was great as Nokmas were non-Christians, But when the Nokma accepted Christianity, nokmaship passed to another person who could act as a nokma in performing rites and rituals. However, the Government still recognized the converted persons as nokmas. This created dislocation in the traditional system one looming after the customary right and other ritual responsibilities. As I have tried to show that in the traditional system the two roles cannot be separated, the two roles are ~~connected~~ <sup>enmeshed</sup> into each other.

The application of the Rules for the Administration of Justice which vested in the village headman and laskars with judicial authority created some formal stereo types for the administration which affected the traditional set-up, so

long it based on unwritten customary laws. The Codes of Civil and Criminal Procedure were not applied but only the spirit of the Penal Code was followed. A villager can no longer avenge a death by another at present. The sanction of tribal law does not lie in custom alone but in the principles on which their society is based.

No doubt there have been a lot of changes in this society but they are not radical enough that they have totally transformed the society. With the result to-day we find the Garo, like many other traditional societies are running on two parallel rains one is the traditions and the other is modern. The modern changes are not endogamous, the same have been imposed on them. Customary law can only be altered by a well-established custom modifying it or by legislation, a suit alleging a new custom could conceivably succeed if sufficient evidence were laid. When the law itself is not customary but is rather a set of principles accepted independent of custom the court must either itself already know the law or must have a means of ascertaining it.

(i) Changing customs and modernization:

The cases which are brought to the courts are serious and quite entangled ones, otherwise such case could be decided amicably at the mahari or chra level in the village. When one does have a dispute involving on alien village, he does not get any support from any member of that village since they do not belong to the same clan as his. The village

authority decides the case and gives judgement according to the customary law. The dispute processing at different stages is as follows-. First, the discussions held with the other members of the clan. News are sent to the clan members to attend to the case as it is important. Secondly, the discussions of the event are held with the head-man and the clan members. The headman directs the necessary witness to be brought because without witnesses the meeting cannot be held. If the culprit wants to confess his guilt, he can do so at this stage. Thirdly, the village meeting is announced so that the people may gather at the meeting place at the appointed day and help to process and resolve the dispute at the village level.

These are some of the main points which emerge from the analysis of the judicial process among the Garos. The judges draw on the same sources of law like custom, legislation, precedent, equity, the laws of nature and morality. The assessment also depends on the evidences of these sources of law. Judges strive to reconcile disputants who are kinsmen, they will not do so at the cost of glossing over wrong doing. Those who have erred are always reprimanded. It is a basic axiom of law that wrong doers should be secluded and punished hence if it is impossible or inappropriate to secure this end by making them pay recompense, to those they have harmed, the judges inflict a fine or other punishment. Again, a criminal trial may emerge from a civil court.

In theft cases, Garos do not have the support of detectives or of a technology of expertise on finger-printing, hand writing, blood tests, etc. but the custom is established by a good evidence. Evidence is tested by judicial cross-examination and the truth arrives. In sorcery cases, oracles were used in the past. Equity, justice and morality are the sources in which the judges draw in adjudicating on disputes. Law, right and property have several meanings, and examined, how their varied meanings functioned in the judicial process in legal practice and in social life.

An expert of a tribal court, Mr.S.C.Roy recorded the view that "this complicated system of administration of justice has tended to impair the natural truthfulness and honesty of the people in many cases. By repeated painful experiences the people have found that under the complicated and cumbrous Procedure Codes and a too technical law of Evidence which are now in force and which are beyond their comprehension, their native straight forwardness and veracity is no match for the chicanery and falsehood and the many subtle tricks employed against them by many of their adversaries. And 'law touts' and other partly-fogging 'adversaries' are not wanting to induce them to adopt the ways of their adversaries. Such advice unhappily they now not unoften follow, though rather clumsily. But as it is inevitable, the expensive system of litigation through one court after another is ruinous for the poor aboriginal, who, in most cases, cannot fight up to the last, and even those who can, only find themselves in the end utterly ruined through the expenses and trouble of securing

ultimate victory. In this way, the complicated British Indian system of administration of justice has more often than not helped in ruining the aboriginals economically and in degrading them morally." (Ancher, 1983; p.640).

In the same ~~time~~ Roy & Rizvi (1990) discussing Garo customary law state, "Against the onslaught of modernisation of coming of Christianity, establishment of Christian missions, better means of communication, culture contact, education, introduction of formal system of dispensation of justice and acculturation, the Garo apparently remained clear with their traditional conduct of rules in private/public behaviour. The matrilineal ethos of their social organisation had certain inherent characteristics which assisted them to retain its originality and its retention could be made possible due to the national policy of non-interference pursued by the Indian Government. There are specific peculiarities of the Garo customary laws which per se maintain law, order and discipline within the society. First, each Garo individual is aware of the other's right and privileges and thus none likes to infringe the rights of the others. Secondly, individuality of a Garo person is not considered apart from that of the family and extended family (mahari) which thrust the responsibility of maintenance of discipline among every constituent member of madrang (matrilineal kin group). The Garo customary law is self regulatory in the sense that a Garo considers that to injure the honour of fellow being, to show disrespect or dishonour to others amounts to causing offence towards supernatural powers which may bring nima (wrath of the

deity). But if someone breaches the norm or rule the deviant if suitably punished through imposition of dai then nima can be avoided."

However, here I would like to add that till the early seventies the influence of Christian mission, increased communication and education were engulfing the Garo traditional way of life slowly but surely. But from seventies one viewed a wave of rejuvination or self awareness which compelled some of the young Christian enthusiast to abandon their cushy and comfortable job for serving their Garo people in remote areas of Garo Hills. To bring to them the kindly light of education without the enforcement of religion. In the mean while the songsarek were almost having the existence of outcaste, they were poor, deprived and exclusively on their own. Though this revival of tribal value has greatly affected and altered their music and dance, how much effective it is going to be with respect to mores and values are yet to be seen. The most important aspect of modernization which appears to shaken the traditional Garo social structure is employment of the educated young away from their native village and home. This had been largely responsible to gradually break the family system or nok. Since the main thrust of Garo social system is born by the family and the kin members. And once the members of the machong and mahari start depleting and influence and authority of the institution considered redundant in face of changing value system; the traditional council of Garos can never be reinstated in its pristine glory; since the Garo social structure mainly sustains on the kinship cohesion or unity of the kin members.

(ii) Education and its rele:

Ever since the British officials visited the Garo Hills and started its administration at the district headquarters at Tura, the atmosphere of the cultural life had been disturbed. Education by opening special schools for the Garo boys and girls started long ago at Goalpara in Assam even before the British administration established in Tura. Later on, the schools were opened for the boys and girls at Damra, Rajasimla, Rongjuli and Nibari by the Missionaries who taught Bengali and Assamese literatures in these schools.

With the recommendation for opening of schools by David Scott, (Barooah, 1970; 177-78), the first school was opened at Singimaree in Garo Hills with a school master in 1827 but the school master resigned in the same year. Another successor had been replaced but unfortunately that teacher died soon after he took charge of the school. David Scott had seen that the Garos would soon become Hindus or half-Hindus if they were not interferred and converted them into Christianity. He wrote many letters of recommendation to the British Government at Fort Williams in those days. He tried his best to bring the Garo children into the limelight of modern education along with others who were already attending schools surrounding the district. The first Garo converts were Omed and his nephew Ramkhe who taught at Damra and Rajasimla village schools. It was in 1871 when a school was opened first in Tura for boys and girls. The missionaries at Goalpara took directly the management of schools in Garo Hills

which was aided by the Deputy Commissioner of the district and he did the inspection of schools by himself for a very long time.

In those days the Garos had to study Garo language through Bengali and Assamese as they did not have their own script. Later on, when the second batch of missionaries had come they realized that the Garos should learn their own language through the Roman character. They themselves started learning the Garo language and wrote many Garo books for the school children as well as translated the Holy Bible into that language.

In 1875 there were nine girls attendance in Rajassimla school and the girls appeared more desirous of having education. The wives of the missionaries took special care to teach the young girls the useful arts of sewing, handiworks, dresses with decency, cooking, sanitation and health, etc. Those were the girls who had first draped started chaddar like Assamese women on top of their lungis. Men dressed like them wearing dhoti and shirts which was the sign of education and change of traditional dresses. Those boys and girls sang Christian hymns and attended church services and behaved like their pundits (teachers). Since the Bengali and Assamese languages had been used for the convenience of Garo language so many Bengali and Assamese words had cropped into the Garo language. It is not the fact that the Garo had no original words for them, but every word used for their convenience was incorporated in the language. That is how the Garo have lost some

of its beautiful words in writing and also in speech.

The efforts to promote education among the Garos had been solely made through the Garo mission were the American Baptist Missionaries. The British Administration had not opened schools and the missionaries had taken pain to start schools entirely for the Garos. As the schools had attracted the boys and girls, they were ready even for conversion into Christianity. Every school going boys or girl had to convert and become Christians. This way the missionaries had misled the Garos to become orthodox Christians but as they were half-believers, they could not become good Christians till date. They could not completely convert themselves as their culture and customs were always at cross roads with Christianity. Those boys and girls had helped the missionaries to write books in Garo and later translated from Bengali and Assamese books into Garo. At that time English was not taught fearing that if Bengali had stopped every Garo would quit the schools. Therefore, the Garo and Bengali continued in schools even after they introduced the Garo medium of instruction.

In 1902 all mission schools were converted into Garo medium schools. The pupils were sent to different schools as teachers as well as pastors to preach in the churches in villages. Those churches were conducted in the school buildings and thus they managed to convert all school going pupils into Christianity. The education and Christianity went side by side. Thus the dreams of David Scott had come true by 'making the savage and rude Garos into better human beings.'

Those converted Garos were taught to abandon their traditional religion, feasts, festivals, music, dancing and stop all kinds of sacrifices for invoking the spirits and natural forces. Men cropped off their long hairs and stopped wearing their jewellery and started covering their naked bodies with the clothes available in the markets or wore the clothes, , the missionaries gave them particularly during the winter months.

The Christian villages had remarkably changed its set up by discarding the institution of famous nokpante which was an institution for the young boys specially to educate them in their indigenous way in the village activities. Whereas the nokma of the village could not do the duties of the village teacher and pastor in the churches. Thus the authority of nokma had completely usurped by these teachers and church leaders in the village. The cultural and socio-political life of the Garos had changed by these foreign forces within a few years of time. In a short period the structure of dwelling houses were also adopted from the plain areas, Some Garos imitated the life style of westerners. With the education and Christianity all marriages were conducted in accordance to Christian custom and were called church marriages. Though most of the rural areas had not received education and Christianity, the parents did not prevent their children to go to school and became Christians. Some of the Garo boys were taken to America to allow them to learn about other cultures in America and study them. When the missionaries were not given permission to carry on with the evangelization work in India after Independence the quality of Christians had deteriorated

the people have neither good ~~Christians~~ ~~monks~~ ~~abbots~~ ~~Songsarek~~. Older persons always remember and miss the missionaries, their teaching and guidance which changed 'the rude and savage tribe' into one of the sophisticated tribes of India. However, the young enthusiast as not suffer from this nostalgia and look forward to a healthy revival of traditional norms.

(iii) Legislative Reforms:

There was a move for retention of the old institution of nokmaship which could not function with authority since the British Administration had appointed the laskars and sardars for the smooth running of their administration from 1824 onwards. The nokmas became only the clan chief and custodian of the clan land a 'king'. The nokma could not administer effectively as he used to do prior to the British Administration in the district. The nokmas were supposed to be well versed with their functions and duties of the villages. The British Administration enforced the Rules of Administration of Justice in the Garo Hills both Civil and Police in 1937 and had been renewed again and again which had been used till the present day. The head of the District Administration was the Deputy Commissioner and his Assistants and it had never been changed.

Secondly, the Rules for the Administration of Justice in the Garo Hills Autonomous District, 1953 under the Sixth Schedule of the Constitution of India after the creation of autonomous districts in 1952, had been approved by the Governor of Assam for use in the Garo Hills District. This Rules had no provision for Police which is under the Deputy

Commissioner could be requisitioned whenever necessary. The Garo Hills District Council passed an act to provide for the abolition of certain social customs and practices of the Garos under the Act No.III of 1955. This Act provided the abolition of dai or fine imposed on the mahari. The practice of imposing a dai on the mahari for breach of any Garo Social Customs by a member of that mahari shall be abolished with the commencement of this Act: Provided that it shall not be illegal for the mahari to make voluntary contribution towards the payment of the dai. Provided that nothing in this Act, shall prevent the realization of dai from properties held jointly by the offender and the mahari (AIR 1952 Assam 139).

(iii) Application of Limitation Act:

Although the Indian Limitation Act, 1908 (Act IX of 1908) has been barred by Notification No.5868-A.P. dated the 8th September 1934, the principles of the Act should be closely followed in disputes between persons not belonging to a Scheduled Tribe or Tribes specified in items 1 and 2 of Part I- Assam of the Schedule to the Constitution (Scheduled Tribes) Order, 1950: Limitation Act (1908) Section 1 and Articles 142 and 144- Act does not apply to disputes between members of Garo tribe who are included among the Scheduled Tribe. Adverse possession cannot therefore be applied (Civil Revision No.10(H) of 1967).

The Garo Hills Autonomous District (Social Customs and Usages) Validating Act, 1958, Act No.1 of 1959 which received the assent of the Governor on 22nd January, 1959, whereas some

doubts have arisen as to the legal force of the social customs and usages now prevalent in the District of Garo Hills.

It is, therefore, expedient that an Act should be made to validate those social customs and usages which are not against morality or public policy.

(i) It is subject to any law in force within the Garo Hills Autonomous District all social customs and usages and customary practice now universally prevalent among the Garo people of the district or any determinate section of the same shall have the force of law and shall be deemed to have the force of law since the commencement of the Constitution of India on 26th January 1950:-

Provided that no such usage and custom shall have any legal validity by virtue of this Act if it is against morality or public policy.

(ii) All acts done before the commencement of this act shall be deemed to be valid if such act is consistent with the provisions of this act and for that purpose, this act shall be deemed to have been in force since the commencement of the Constitution.

(iii) The succession to the nokmaship of any a'king shall be recognized in accordance with such social custom or customary practice as was followed prevalent in that behalf before the commencement of the Constitution, except that the powers which were exercised by the Deputy Commissioner before the commencement of the Constitution shall hereafter be exercised by the

Revenue Member of the District Council.

(iv) (a) Whenever a vacancy occurs in the office of a nokma of any a'king or there arises any dispute in the matter of succession to nokmaship of any a'king or any dispute with regard to any other matter relating to or connected with, any a'king and the boundaries thereof, the matter shall be referred to, in the first instance, to the Revenue Member for disposal in accordance with the customary practice and the usages of the Garos.

(b) Any person aggrieved at the order of the Revenue Member under sub-section (a) above, may prefer an appeal to the Chief Executive Member within 60 days from the date of order.

(v) All successions to nokmaship here to affected and all disputes with regard to any other matter relating to any a'king and the boundaries thereof, here to settled shall be deemed to be validly affected and validly settled notwithstanding any irregularity contained therein provided such succession and settlement of disputes is consistent with this Act and for that purpose this Act shall be deemed to have come into force from the date of the commencement of the Constitution.

(vi) Notwithstanding anything contained in sub-section (a) of section iv, the Executive Committee may, by general or special order, delegate to any officer of gazetted rank of the District Council all or any of the powers conferred upon the Revenue Member, under sub-section (a) of section iv:

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Provided that the Chief Executive Member or the Revenue Member or any officer of the District Council may, for the purpose of exercising his powers under section iv utilize the services of any Revenue Officer of the District Council (J.Sangma, 1973; p.34-37).

Bar to the Jurisdiction of Civil Courts:

No civil courts shall entertain any suit or proceeding in respect of any matter falling within the purview of the Act. (Garo Hills District (Social Customs and Usages) Validating (Amendment) Act, 1972. Garo Hills Act No.1 of 1973) (J.Sangma, 1973; p.37).

(iv) Future of traditional laws:

The court decisions and the judgements passed on the Garo cases by the learned judges in the places like Calcutta, Dhaka, Gauhati High Courts and also the courts of Deputy Commissioner and the District Council Courts were examined earlier. These decisions were basically depended on the earlier, books on Garo Society and Garo customary laws which were written in the early part of this century. The authors were obviously the British Officials and one was as Australian Missionary. How much the judges in those days depended on these books is now for us to see in their judgements. Did they have legislative sanction to use these customary laws in settling disputes?

These traditional customs and usages had been enforced legally in the society and it remained strictly in the rule of marriage, succession and inheritance. As we see, in the courts also legal actions had been taken to settle the disputes or grievances. How much a non-Garo judge understood the meaning of Garo custom and Garo law in the society?

Professor I. Schapera in a recent article on tribal laws of Africa which extend to the tribal traditional laws of India writes as follows:

"Since, in every individual case, the judge's decision is shaped at least partly, by the opinion of the people, it is unlikely that judicial precedents can be as significant as is sometimes asserted of similar systems. Whether or not a precedent exists depends in fact merely upon whether someone present has seen or heard of a similar case before. In the circumstances, and considering the inevitable limitations of personal experiences, the tendency will be for judgements to be based more upon recognized general principles than upon specific decisions of the past.

This in turn means that the law is not rigid but flexible and can be readily adapted to meet new situations or, if need be, to reject customary norms that are now considered absolute.

What effect the introduction of written records in courts will have upon the developments of traditional law is still uncertain. Until and unless professional lawyers become part of the legal system the courts will continue, as in the past, to rely upon personal experience and opinion, and not feel bound

to adhere in all instances to previous decisions"

(Schapera, 1957; p. 161-62).

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Thus in conclusion it can be added that inspite of the presence of dual legal system one aspect which still remains common to the community members is their fear of the superorganic and their earnest efforts not to disturb the delicate balance between the world of super organic and humans. And in their efforts they have imposed restrictions at various levels. The transgression of these restrictions amount to socio-religious sacrilege and had to be immediately corrected upon through offerings and appeasement of the spiritual world. The repeated deviation from the set pattern amounted to excommunication. But before embarking upon this drastic step the society gave the individual ample opportunity to rectify his behaviour. The means and mode of rectification were mainly aimed at bringing back to normal the disturbed balance the spiritual and human world. In this regard the human individual was never stamped as a convict, guilty or condemned. Instead it was interpreted as reduction in the ritual purity of the individual. Therefore, for installing the person back to his normal status there are set courses after which the person regained his status in the society. Whereas, the modern legal system which is truly based on evidence does not take into consideration any human factors in life: the tribal council would get an unwed mother married to the person she points out as her lover. The word of mouth never holds true in the court of law and in the course of evidence finding, the state and condition of the expecting mother (woman) is not looked into.

Yet, these two contrasting legal systems today exist side by side in the tribal communities of contemporary India. And the people are availing the best and worst out of both the systems. However, before these humanistic and compassionate customary rites get sponged out at the hands of the modern legal system the elites and the individuals themselves should be made to realise the importance of these traditional pattern of the legal system which are suited to the social system unlike the modern jurisprudence which still remains highly complex and formidable even to the educated mass. The prime distinction between the two being that the latter stigmatises a person in the society if he has gone through the entire system of the jurisprudence, ultimately alienating the individual. Whereas, the traditional councils make all efforts to reestablish the person who has wronged.

Thus what we are witnessing today in the existence of dual legal system have overriding the other. Both are given due recognition from the constitution but in the Garo cases none have been able to create a permanent impression in face of the community trying to utilise the best out of both the existing systems to suit his interests.

1. Geneological Tree of Nokmas in Wa<sup>r</sup>amgre Village

| <u>Woman Nokma</u> | <u>Ma<sup>r</sup>chong</u> | <u>Man Nokma</u> | <u>Ma<sup>r</sup>chong</u> |
|--------------------|----------------------------|------------------|----------------------------|
| Dinse              | Agitok Koksep              | Arang            | Rangsa Arimandi            |
| Di                 | " "                        | A ntha           | " "                        |
| Jona               | " "                        | Dosanan          | " "                        |
| Dingche            | " "                        | Bekhin           | " "                        |
| Rane               | " "                        | Ganding          | " "                        |
| Namreng            | " "                        | Nana             | " "                        |
| Olong              | " "                        | Dokrongkha da    | " "                        |
| Gilje              | " "                        | Dokrongkha       | " "                        |
| Bingche            | " "                        | Todin            | " "                        |
| Sea                | " "                        | Jarang           | " "                        |
| Jai                | " "                        | Isan             | " "                        |
| Jonna              | " "                        | Allen            | " "                        |

2. Geneological Tree of Nokmas in Tebronggree Village.

| <u>Woman Nokma</u> | <u>Ma<sup>r</sup>chong</u> | <u>Man nokma</u> | <u>Ma<sup>r</sup>chong</u> |
|--------------------|----------------------------|------------------|----------------------------|
| Mirep              | Agitok Koksep              | Darin            | Bolwari Gisim              |
| Dike               | " "                        | Daran            | " "                        |
| Dikme              | " "                        | Rondon           | " "                        |
| Ganje              | " "                        | Joljinna         | " "                        |
| Changkhi           | " "                        | Ransengpa        | " "                        |
| Sani               | " "                        | Rochan           | " "                        |
| Simdo              | " "                        | Giljan           | " "                        |
| Misari             | " "                        | Khejing          | " "                        |
| Ajari              | " "                        | Khanan           | " "                        |
| Senge              | " "                        | Kebak            | " "                        |
| Nomik              | " "                        | Changsan         | " "                        |
| Bakrek             | " "                        | Ron              | " "                        |
| Jingme             | " "                        | Tangjing         | " "                        |
| Tangjaka           | " "                        | Soten            | " "                        |

## ANNEXURE

1. Miscellaneous Appeal No.36 of 1936 Lojamati Shira versus Chaseng Marak.
2. Miscellaneous Appeal No.327 of 1924-25 Dual Sangma versus Rimji Me'Chik.
3. Revenue Case No.33 A.C. of 1947-48 Cheng Me'chik versus Sim Me'chik.
4. Criminal Revision reported in Calcutta Law Journal 1906(3)195 Sonaram Sangma versus King Emperor
5. 54 C.W.N. 2 DR 14 High Court Dacca Nabujan Marak versus Paushimoni Marak.
6. 79 C.L.J. 121 I.L.R. (1944) Cal 522 Nirodini Sangma versus Nanda Sangma
7. AIR 150 Assam 85 Monje Me'chik versus Mechok Me'chik ILR 4 Assam 169.
8. AIR 1950 Assam 88 Sonaram Nokma versus Joram Nokma
9. AIR 1952 Assam 67 Lem Sangma versus Gamsing Sangma.
10. AIR 1952 Assam 139 Singa Marak versus King Emperor
11. ILR 5 Assam 105 Channing Sangma versus Singgan Sangma.
12. ILR 5 Assam 221 Singdon Marak versus Nonel Marak
13. ILR 11 Assam 387 Songje Me'chik versus Chini Me'chik.
14. Miscellaneous Appeal No.101 of 1933 Ajeng Nokma versus Gongsin Nokma
15. Miscellaneous Appeal No.34 of 1938 Kupa Koknal versus Rache Koknal
16. Civil Revision No.94 (H) of 1949 Natha Nokma versus Wanna Marak.
17. Civil Revision No.116 (H) of 1949 Nokdi Me'chik versus Nanggan Marak.

18. Civil Revision No.42 (H) of 1950 Brindapara Marak  
versus Sormati Momin.
19. Civil Revision No.188 (H) of 1951 Jajan Marak  
versus Khilje Nokma.
20. Civil Revision No.132 (H) of 1952 Mannan Marak  
versus Jangban Marak.
21. Civil Revision No.93 (H) of 1952 Mandakini Momin  
versus Jingan Sangma
22. Civil Revision No.71 (H) of 1952 Donje Me'chik  
versus Wari Me'chik.
23. Civil Revision No.133 (H) of 1952 Chonje Me'chik  
versus Chengmi Me'chik.
24. Civil Revision No.51 (H) of 1952 Cheng Me'chik  
versus Sim Me'chik.
25. Civil Revision No.52 (H) of 1952 Rikchon Sangma  
versus Jaran Nokma.
26. Civil Revision No.56 (H) of 1949 Sim Me'chik  
versus Singjan Nokma.
27. Civil Revision No.3 (H) of 1952 Thajing Nokma  
versus Jangra Sangma.
28. Civil Revision No.8 (H) of 1952 Thiti Sangma  
versus Arensing Marak.
29. Civil Revision No.51 (H) of 1953 Resan Sangma  
versus Thilson Areng.
30. Civil Revision No.73 (H) of 1953 Phaljing Marak  
versus Nangjon Marak.
31. Civil Rule No.172 of 1953 Ringa Sangma  
versus Jasang Marak Nokma II.
32. Civil Revision No.208 (H) of 1954 Ringa Sangma  
versus Jasang Marak Nokma.
33. Civil Revision No.35 (H) of 1954 Horeswari Marak  
versus Frexdice Marak.

34. Civil Revision No.131 (H) of 1954 Sangjin Sangma versus D.C. Garo Hills.
35. Criminal Revision No.216 (A) of 1954 Thangjing Nokma versus Alison Sangma.
36. Civil Revision No.63 (H) of 1955 Ajan Me'chik versus Khenil Momin.
37. Civil Revision No.110 (H) of 1955 Jitman Sangma versus Inje Marak.
38. Civil Revision No.10 (H) of 1967 Singma Sangma versus Khilji Sangma.
39. Civil Revision No.15 (H) of 1973 Manjang Sangma versus Rangjam Sangma Nokma.
40. Civil Revision No.7 (H) of 1973 Kakong Sangma versus Nangjan Sangma.
41. Civil Revision No.16 (H) of 1973 Rangche Marak versus Hiramoni Marak.
42. M.A.(S) No.3 (H) of 1973 Nanji Marak versus Rongji Sangma.
43. Civil Revision No.13 (H) of 1973 Pentu Marak versus Nangme Marak and others.
44. Civil Revision No.12 (H) of 1974 Bilgan Marak versus Nangman Marak.
45. Criminal Revision No.170 of 1974 Lemendra Marak versus State of Meghalaya.
46. Civil Revision No.5 (H) of 1976 Ganjak Me'chik versus Jingma Marak
47. Civil Revision No.19 (H) of 1976 Chingmi Sangma versus Pubeline Sangma.
48. Civil Rule No.282 of 1977 Gongsin Sangma versus Chief Executive Member, GDC.
49. Criminal Appeal No.48 (J) of 1951 Dalma Marak versus State of Meghalaya.

50. Civil Revision No.10 (H) of 1967 Singme Sangma versus Khilji Sangma.
  51. Civil Rule No.58/78 Dore Sangma versus Chief Executive Member, GDC.
  52. Civil Rule No.403 of 1982 John Sangma versus Jonan Sangma.
  53. Civil Rule No.917 of 1982 Mega Marak versus Rinjing Marak.
  54. Civil Rule No.918 of 1982 Nengsan Marak versus B.Marak.
  55. Civil Rule No.936 of 1982 Allipson Marak versus Jongson Momin.
  56. Civil Rule No.1176 of 1982 Moring Sangma versus Rengan Marak.
  57. Civil Rule No.92/84 Chejan Laskar versus Changjan Sangma.
  58. Civil Rule No.752 of 1985 Chingra Sangma versus Witje Sangma.
  59. Civil Rule No.463 of 1986 Nelson Sangma versus Jirin Marak.
  60. Civil Rule No.936/82 Dangsing Sangma versus Sriman Sangma.
  61. Civil Revision No.77 of 1986 Surendra Sangma versus Khetrinath Sangma.
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## DISTRICT COUNCIL CASES

1. No.12 of 12.6.67 of Grenggandi Jangwan Sangma versus Areng Marak.
2. No.2 of 6.1.70 of Waribok Dinjak Marak versus Jingme Marak.
3. No.11 of 11.3.70 of Rongrong Rojeng Marak versus Saising Sangma.
4. No.3 of 4.1.74 of Rongsakgre Jimre Marak versus Disan Sangma.
5. No.14 of 2.9.74 of Gasuapara Simbalin Marak versus Jakan Sangma.
6. No.3 of 31.1.75 of Danakgre Anand Sangma versus Adek Marak.
7. No.14 of 22.9.75 of Selsela Asan Marak versus Togan Marak.
8. No.2 of 11.2.75 of Marakkapara Jangin Marak versus Singding Sangma.
9. No.18 of 18.1.76 of Mangsanggre Nath Marak versus Sanme Sangma.
10. No.4 of 27.2.76 of Asugre Duram Sangma versus Eronsing Sangma.
11. No.16 of 16.9.76 of Rangsakona Raji Sangma versus Naring Marak.
12. No.3 of 20.5.76 of Alotgre Songdi Marak versus Balme Sangma.
13. No.10 of 18.6.76 of Bonepa A'tila Melicent Marak versus Atul Marak.
14. No.29 of 22.12.76 of Bekbekgre Ratmilla Marak versus Racha Sangma.
15. No.3 of 8.3.77 of Mangchenggre Witjeng Sangma versus Naak Marak.

16. No.7 of 16.6.77 of Rangsakona Nangdon Marak versus Parmi Marak.
17. No.2 of 2.3.78 of Mandalgre Pilimon Sangma versus Mechen Marak.
18. No.18 of 10.11.78 of Rangsakona Ranjit Momin versus Jingran Sangma.
19. No.19 of 15.11.78 of Ampati Jingga Marak versus Arong Sangma.
20. No.3 of 15.3.79 of Dengnakpara Saljeng Sangma versus Satje Marak.
21. No.10 of 28.7.80 of Danakgre Neng Sangma versus Nangjeng Sangma.
22. No.18 of 1.10.80 of Simaronggre Ratrat Marak versus Jiji Marak.
23. No.17 of 1.10.80 of Salbila Koinamoni Marak versus Gatjeng Marak
24. No.8 of 7.8.81 of An'chenggre Rusim Sangma versus Chenga Me'chik.
25. No.12 of 10.10.81 of Asananggre Golden Marak versus Nenggan Sangma.
26. No.3 of 9.3.81 of Rochonpara Satnak Marak versus Daldat Sangma.
27. No.12 of 17.8.81 of Resubelpara Hedison Momin versus Wingstone Momin.
28. No.7 of 7.8.82 of Rangsakona Motje Marak versus Ralsing Sangma.
29. No.16 of 1982 of Bolkona Joronggu Momin versus Mahim Marak.
30. No.8 of 17.9.82 of Dengnakpara Minising Marak versus Mingsin Marak.

31. No.6 of 3.6.83 of Boldangre Balmi Momin  
versus Kremison Marak
32. No.14 of 21.11.83 of Selsela Sotjen Marak  
versus Nagin Marak.
33. No.1 of 10.2.83 of Bongpara Caroline Marak  
versus Genendro Marak.
34. No.2 of 1983 Wijansing Sangma  
versus Oldil Sangma.
35. No.1 of 2.2.83 of Chelipara Agath Marak  
versus Raji Marak
36. No.11 of 13.9.84 of Damra Tap Me'chik  
versus Sengwan Marak.
37. No.3 of 22.8.84 of Sasatgre Dewin Momin  
versus Jeng Marak
38. No.6 of 1985 Danggo Sangma  
versus Kenjini Sangma.

GLOSSARY

|   |   |
|---|---|
| a'gate  | non-heiress daughter  |
| a'jikse   | land owned by husband and wife  |
| a'joma or<br>a'jinma  | common land of particular <span style="border: 1px solid black; border-radius: 50%; padding: 0 2px;"> </span> clan  |
| a'kim<br><small>a'king</small>  | bond of marriage  |
| a'king nokma  | <small>land of a clan</small><br>custodian of clan land   |
| a'krom  | place where the incident occurred   |
| a'mate  | purchased land by individual  |
| am'beng<br><small>amillan</small>   | linguistic group  |
| asimalja  | <small>land as a booty of war</small><br><span style="border: 1px solid black; border-radius: 50%; padding: 0 2px;"> </span> <small>social crimes</small> |
| a'songtata  | sacrificial performance for the welfare of the village  |
| a'song or <span style="border: 1px solid black; border-radius: 50%; padding: 0 2px;"> </span><br>kosi<br><small>a'wil</small> | sacred stones kept in the village<br><small>rent for cultivation</small>  |
| bira jila<br><small>bathan</small>  | spirit nurtured by a physician<br><small>Nepali settlements.</small>  |
| chatchi   | a group of clans  |
| chawari   | non-heir son-in-law   |
| chra  | male members of a family  |
| chokela so'a  | water boiled with limited <span style="border: 1px solid black; border-radius: 50%; padding: 0 2px;"> </span> firewood                                    |
| dai   | compensation  |
| dakteka<br><small>dakmalja</small>  | doing things knowingly<br><small>social crimes</small>  |
| delang rasi   | widower remarries   |
| delang so'a   | post funeral ceremony   |
| den'a -su'a   | to cut  |
| dikka<br><small>dikga</small>   | pitcher used for brewing rice beer<br><small>herbal plant</small>   |
| doka  | corporal punishment or beating  |
| do'sia  | A'chik wedding  |
| gisea-dokgrika  | quarrel and fight   |
| gro   | case  |
| jikgite   | second wife   |
| kamal   | priest  |
| ka'onange   | beat in anger   |
| doka  |   |
| kima <small>songa</small>   | memorial post   |
| kima  | wed   |

|                             |   |
|-----------------------------|---|
| kora<br><small>kosi</small> | metal gong<br><small>sacred stone of village.</small> |
| kram                        | drum  |
| ma'chong                    | motherhood  |
| ma'dong                     | incest marriage                                       |
| mahari                      | members of a clan unit                                |
| mahari melaa                | meeting of the members of a clan unit                 |
| mangona                     | post funeral ceremony                                 |
| me'mang                     | land of death   |
| a'song                      |   |
| me'mang rasi                | widower remarries                                     |
| wite                        | spirit  |
| mong'a sala                 | seducement  |
| natik                       | small drum  |
| <small>nagra</small>        | <small>big drum</small>                               |
| nima                        | social etiquette                                      |
| nok marang                  | defiled house   |
| nokkrom                     | heir son-in-law                                       |
| <small>nokma</small>        | <small>headman</small>                                |
| nokna donā                  | heiress daughter                                      |
| noko napdrae                | enter forcibly into the house and beat                |
| doka                        | <small>slave</small>                                  |
| <small>nokkol</small>       | bachelors dormitory                                   |
| nokpante                    |   |
| on'chapa                    | additional wife                                       |
| on'songa                    | provision for remarriage                              |
| oja                         | village medicine man                                  |
| salak so'a                  | sacrificial ceremony for sunshine                     |
| salgrua                     | sacrificial ceremony for the rain                     |
| sam kal'aka                 | black magic   |
| <small>sardar</small>       | <small>assistant to laskar</small>                    |
| silika                      | sour fruit  |
| sil so'a                    | burn the metal  |
| sko sota                    | head chopped  |
| sok rim'draa                | forcebly touching woman's breasts                     |
| sokso doka                  | disease spread by the evil spirit                     |
| so'mal dona                 | unchastity or cuckold                                 |
| so'mal                      | cuckold   |
| song                        | village   |
| songni nokma                | village headman                                       |
| su'sika                     | to push in by force                                   |
| Tatara Rabuga               | the creator   |
| wachi                       | rainy season  |
| wachitata                   | sacrificial ceremony for the rain                     |
| wangala                     | harvest festival                                      |

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