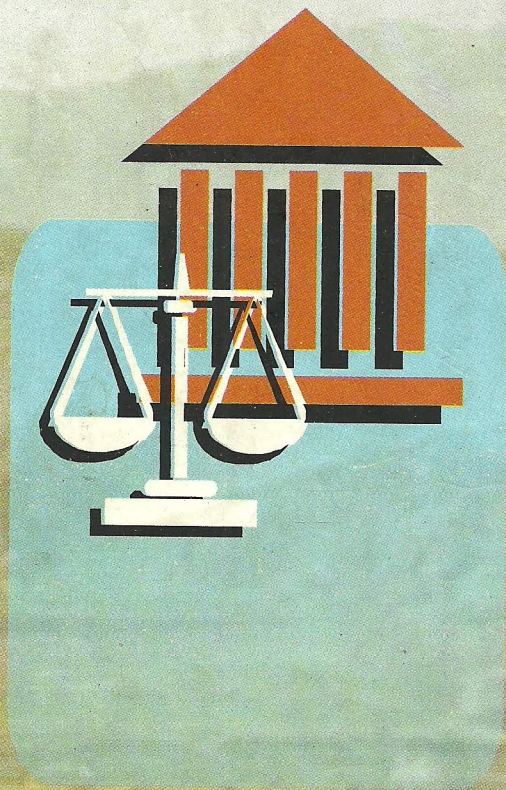


# GARO CUSTOMARY LAWS AND PRACTICES



DR. JULIUS L. R. MARAK

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Amidst a number of research and studies on the Garo or A'chick people as well as books by anthropologists and sociologists there is no accurate study on the Garo Customary Laws and Practices. The Law Courts have given ruling on the various aspects of Garo Customs, Traditions and practices sometimes wrongly to suit their own convenience due to non-availability of codified customary Laws for giving correct interpretations.

The Customary Laws and Practices of the Garos or A'chiks or Mandei in matters of succession, inheritance, transfer of moveable or immovable properties, gift, mortgage, etc. are varied and their interpretations on their Customs and Practices are not uniform for want of written customary laws.

This book now has been revised and enlarged by trying to meet all the basic requirements and demands as well as suggestions of the present generations in the matters of existing traditional customary laws and practices of the entire Garo community wherever they may live.

This book is the comprehensive study made by a Garo Scholar himself who could understand better the intricacies and complexities of Customary laws. He has also cited all the important case laws on the point not only of the districts and village courts but also of the State High Courts, neatly forged a chain by the aid of which an inquisitive reader may easily get down at the bottom and in the process be acquainted with the subject matter.

It will be of great interest to all those who are interested in the Tribal customary laws of Northeast India.

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Julius Lonesh Rangsa Marak, son of Late Gajiram R. Sangma and Mrs. Ratche R. Marak was born on July 18, 1952 at village A'beram (Agreng), West Khasi Hills Meghalaya. He was educated at Sacred Heart Boys' High School, from where he passed his matriculation examination in 1969 and St. Anthony's College, Shillong, where he received his B.A. (Honours) in Political Science in 1973. He passed his M.A. in Political Science from the University of Gauhati in 1970.

In 1982 he was awarded the degree of Doctor of Philosophy by the University of Gauhati for his thesis entitled 'The Garo Customary Laws and Practices (Sociological Study)'.

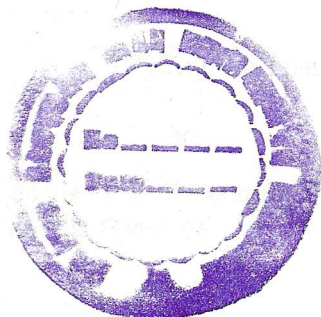
He has ten books in Garo and two in English to his credit besides a number of unpublished manuscripts. He has also contributed a number of articles to the various magazines and journals. He is a life member of Indian Art History Congress and the Northeast India History Association. He is also a recipient of State Award conferred by the State Government of Meghalaya of 'U Tirot Singh' on 21st January, 1998 on the occasion of 25th year of Meghalaya Statehood for his contributions in the field of Literature, Art and Culture and from many other social organisations.

He is serving as Museologist or Curator at State Museum, Meghalaya, Shillong (1999).

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# GARO CUSTOMARY LAWS AND PRACTICES

(A Sociological Study)



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## FOREWORD

The Garos who called themselves "A'chik" in North-East India and "Mande" in Bangladesh is one of the indigeneous tribes of North-East India and Bangladesh. Being one of the linguistic group called Tibeto-Burman of the larger Tibeto-Chinese Speech Family, many of whom have had no written literature, the Garos also depended mainly on their oral traditions for their history and civilisation in the past. It is amazing that even after about 150 years of western education introduced amongst them, the Garos still look up to their oral traditions for an answer relating to any aspect of their cultural and historical roots. This is one of the most interesting examples of the tenacity of oral tradition even amongst the lettered race.

Even in the present days when various kinds of literatures have been produced based on researches, the general people still regard the oral narrations of their traditional customs and beliefs as more authentic.

Modernisation processes have been however, bringing about discernible changes in their customs, traditions and beliefs and practices and as a result, regional variations are even widening the customs between regional groups. Many of their customs and practices have become obsolete and need to be up-dated. It was in the midst of these criss-cross processes that Dr. Julius L.R. Marak has found it necessary to revise and update his own Ph.D. work entitled "The Garo Customary Laws and Practices" for the benefit of the people in general and researchers and law practitioners in particular. Dr. Marak has corrected the mistakes that have crept in the first edition and has brought the second edition up to date. It

is a painstaking job but he has endured them all.

I am confident that this revised edition will be found more readable and useful.

Dated Tura  
The 27th July, 1999

**(Prof. M.S. Sangma)**  
*Pro Vice-Chancellor*  
*NEHU, Tura Campus*

## **PREFACE TO THE SECOND EDITION**

The objective of revising and presenting this book is to give a comprehensive and critical analysis of the Garo Customary Laws, Traditions and Practices which existed amongst the Tribe from the time immemorial. It has been experienced in the past that different Law Courts acted as trial courts have given wrong rulings and interpretations on the Garo Customs, traditions and practices to suit their own convenience as correct interpretation of the customs was not possible in absence of codified Laws. Misinterpretations and wrong rulings are mainly on the matters of succession, inheritance, transfer of moveable and immoveable properties, gifts, mortgage, marriage, divorce, etc.

The utility of this book will be evident from the fact that the First Edition with citation of different case laws, have been exhausted within a year or two and that an enlarged volume on a wider format with some more case laws added to it now before the general readers, professionals and practicing lawyers. The author was able to understand and give clear interpretation about the intricacies of the subject by virtue of his being a Garo and vast knowledge and experience in the customs and traditions of the tribe. Garo community is governed by the most important hitherto unwritten customary laws and practices that has its utility in day-to-day affairs of the society.

This edition contains all the important and relevant latest case laws on the subject and is upto-date. Keeping in view the utmost need and high demand of professionals and the Government

Departments, second edition has been prepared and released by an esteemed qualitative publisher of high patronage and goodwill M/S Akansha Publishing House, New Delhi.

In revising this edition, the author has received valuable assistance from Mr. Weable Ch. Sangma, B.A., LL.B, Advocate but for his co-operation and help this second edition would not have seen the light of day.

My sincere thanks once again to all those friends who gave me encouragement, suggestions and help in revising this book for the benefit of the Garo Community.

Those who are interested in tracing and understanding the changes in the society and the judicial climate are advised to go through this book and try to understand the fundamentals of customary Laws, traditions and practices.

**Julius L.R. Marak**

## PREFACE TO THE FIRST EDITION

The main sources of the Garo Laws are custom and religion. Major Playfair's, "The Garos" (1909); Rev. C.D. Baldwin's, "The Garo Law" (1930); Jobang D. Mark's, "The Garo Law" (c. 1930); Lt. K.R. Marak's, "The Garos and their Customary Laws and Usages" (1964); Garo National Council, Goalpara Districts, "The Garo Customary Law of Inheritance and Punishment and the Village Court Act" (1965); Jangsan Sangma's, "Principles of Garo Law" (1973); Fr. G. Costa's, "The Garo Code of Law" (1975)—all deal with this subject but none of these is comprehensive.

The object of the present work is to present a comprehensive and critical analysis of the Garo Customary Laws, Traditions and Practices. The work is based mainly on the field study. Besides field study, books—both published and unpublished, journals and official reports, minutes and Gazetteers, and official letters have been consulted. The author was able to understand the intricacies of the subject well by virtue of his being a Garo.

I am greatly indebted by Dr. V.Venkata Rao, Professor Emeritus, University of Gauhati, for his supervision throughout the course of my investigation.

My sincere thanks are also due to Dr. Milton S. Sangma, Professor, History Department, North Eastern Hill University, Shillong, for all the encouragement and help given to me from time to time. But for his good suggestions and criticisms the work would not have been so perfect.

Thanks are also due to all the Nokmas, Laskers, Community and Public Leaders who gave me interviews with patience and in

spite of their other preoccupations helped me in finding out the old and existing customs.

Finally, my thanks are also due to those "Pakma Doro ra' gipa, melo kotok pe-gipa" (Judges on the Customary Laws), friends and colleagues who encouraged and helped me in all the possible ways.

**Julius L.R. Marak**

## CHAPTER NINE

# CONCLUSION

### I

The present Garo Hills Districts in the State of Meghalaya and is bordered by the Goalpara district on the North, Bangladesh on the South, the districts of Khasi Hills and Kamrup on the East and Bangladesh and the district of Goalpara on the West. The Garos and the districts were not known to the people outside, until its annexation by the British in 1867. (The Garos came in contact with the British as early as 1788.) The British established a separate district for the Garo Hills in December, 1867 with headquarters at Tura and Capt. W.J. Williamson as the Deputy Commissioner.

The Garo Hills district has been occupied by different subtribes of the Garos. The twelve different sub-tribes of the Garos govern themselves by customary laws, practices and usages, with slight changes and adaptations according to the place and circumstances.

The Kochus are one of the sub-tribes of the Garos. But some sections of the Kotchu themselves do not identify themselves with the Garos.

Playfair says that 'with regard to the Koches, there appears to exist differences of opinion. Colonel Dalton believes the Koches of the Garo Hills to be wholly different in features from the rest of the Koch tribe. In his, 'Descriptive Ethnology of Bengal', he mentions the Pani Koches, who, he says, doubtless belong to the Bodo group. He adds that they are mixed up with the Rabhas. Dr. Grierson has stated of the Koches that, the very name of Koch has lost its original meaning and has now become so far Hinduized that he has abandoned his proper tongue and is particular about what he

eats. In another place he says, according to some authorities, they are Garos who have never gone beyond an imperfect stage of conversion to Hinduism.<sup>1</sup>

But Kochus are one of the sub-tribes of the Garos. In language, their dialect is akin to that of Atong sub-tribes. In matters of inheritance, it is matrilineal and also the titles are taken from the mother's side (komkotha). In the Kotchu villages like Chandobui and Salbaripara of West Garo Hills district the Kochus have the motherhood like Dompá, Do-po, Bolwari, Dajel, Nengwa, Nengminja, Simsang, Rangsa, Tigidi, A-wi, Chambugong and so on, which are also the names of the motherhoods of the Garo tribe. The fact that there are common names of motherhoods proves that they are one of the sub-tribes of the Garos.

From a survey of the history of the Garos, it has been found that the origin of the name Garo has been a controversial one. It is a corrupted word but from which of the following theories, like Gara or Ganching, Garu, Gauru, Gaur, Garudas, Gaoro and so on, the etymon of the word, Garo is still a subject of conjecture for which the field is still open for further investigations. The authenticity of all these theories can still be questioned in the absence of reliable documents and other concrete evidences. (The Garos call themselves, Achik carrying the meaning of Hill Man.) The Garo word for a Hill is A-chik. And since they live in the hills, they called themselves A-chik. The Garos call themselves also as Mandei meaning 'Man'. And till today, the Garos call themselves as A-chik or Mandei. The word Garos used by outsiders only.

Yogini-Tantra calls the present Garo Hills, Manda Saila or Mount Maleus as described by Secundus Gaius Plinus, a Roman Scholar, in his natural history (vi) while referring to some Tibeto-Burman Tribes of North-Eastern India (c. 23-79) A.D.)<sup>2</sup>

From the survey of the history of migration, it has been found that the Garos are aboriginal people. The Garos belong to the Bodo group who also belong to the great Tibeto-Burman race.

Tibeto-Burmese races are cradled in North-Western China between the upper rivers of Ho-Wang-ho and Yang-tse-Kiang.<sup>3</sup>

1. Playfair, A., *The Garos* (1975), Reprint, p. 19.

2. Majumdar, R.C., *Classical Accounts of India* and also vide Chatterjee, S.K.; *Kirata-Jana-Kriti*, (1974).

3. Grierson, George, *Linguistic Survey of India*, Vol. I. part. III. (1968 Second Edition).

The Garos, if at all migrated from Tibet, as stated by tradition (Bima aganna), might have migrated into India in the early periods. S.K. Chatterjee says, it seems quite probable that long before 1000 B.C. some of these early Tibeto-Burmans had penetrated within the frontiers of India, either along the southern slopes of the Himalayas, through Assam (and established themselves in the sub-Himalayan tracts as far west as Garhwal and Kumaon), or by way of Tibet, going up the Tsangpo or Brahmaputra and then crossing the Himalayan barrier into Nepal and Garhwal-Kumaon.<sup>4</sup>

The Vedic Aryans call these non-Aryan tribes living in the Mountains Kiratas.<sup>5</sup> The recent discovery of some stone tools in the Garo Hills district of Meghalaya showed that the neolithic people were the earliest settlers of this part of the country. Drs. T.C. Sarma and H.C. Sarma are of the opinion that the paleolithic culture of this region has a strong relation with the same culture of India. The stone tools, which are found in the Garo Hills have stylistic affinity with those found in South-East Asia.<sup>6</sup>

The ancient village administration was run by the Nokma of a high social position. These were the Ganna Nokmas who had influence. Then, in the affairs of the Mahari, slowly this system gave way to the A-king Nokmas who acquired the right to be the head of the Mahari. These Nokmas administered over their A-king land in consultation with his chra and mahari. In the administration of justice he presides over the meeting where judgement is passed according to the decision of the majority. With the advent of the British, the British government appointed a number of officers like Nokma (headmen), Laskers, Sardars to aid them in local administration. At present, these local officers carry on administration according to customary laws, traditions and practices. Apart from the A-king Nokma, under the District Council administration every village has a Nokma (headmen) and a village Secretary. The local cases and minor disputes are disposed off by the village courts established by the District Council. The Laskers are the ex-officio Presidents of the village courts against whose judgement an appeal can be made to the subordinate District Council Courts.

4. Chatterjee S.K., *Kirata-Jana-Krti*, (1974), p. 26

5. *Ibid*, p. 36.

6. Choudhury, R.D., *Cultural Heritage of Assam*, (a Survey), *North-Eastern Spectrum*, Vol. I No. 6 (1976), p. 25.

The chra and the mahari have the power to settle any dispute that arises within the mahari. However, the usual form of punishment is payment of dai or fine and doke dona (beating). The guilty are severely beaten during the mahari meeting. There is no appeal against such beatings of the chra and the mahari. But by custom and practice the maternal uncle, if he is present, or any elder member of the same motherhood has a right to beat the offender.

## II

Adultery is an act of unfaithfulness on the part of husband or wife. Such persons are punished with dai or fine according to the nature and seriousness of the offence committed. The payment of dai or fine in cash was in vogue during the British rule in place of capital punishments. The British government gradually took steps to abolish capital punishment.

The moral standards of the Garos are high and there is no prostitution. Any breach of customary law is punished with dai. Dai is imposed on the offender, but the sum is jointly paid by the chra and the mahari. The sharing of the payment of dai by all the members of the mahari means the sharing of the responsibility of the offender in moulding his or her future good behaviour towards the offended party.

The cases of rape amongst the Garos are very rare. Rape is committed mostly by outsiders on innocent tribals. In order to check the outside offenders, the Garo chra and the mahari must be given the absolute power to try and punish such offenders according to the Garo customary laws and practices.

Elopement is, however, very common among the Garos even in present times. Elopement takes place when the parents or the mahari are opposed to the marriage. The offenders of such social crimes are punished with heavy dai or they are separated.

The Garos have special taboo against any unfortunate incidents. The christians still believe and observe Dakmalja, Nima and Se-a. The method of making compromises or Gitok chikgrika has undergone a change. In olden days, compromises were effected by the disputants by drinking rice-beer from the same gourd and eating rice from the same plate (banana leaf). But at present, compromises are effected by shaking hands. The acts of offering sacrifice to the spirit guardian of the lives of human beings (Kalkame-Kalgira Mitde) known as A-song tata or kosi den-a is still continuing among

the Garo animists. However, with the spread of Christianity (Mitdei krita) the offering of sacrifices to deities is fast disappearing.

The accusation of adultery (Amita) among the Garos between the husband and the wife is common and sometimes it becomes the cause of the break up of many homes and families. In order to stop false and baseless accusations, heavy dai is imposed.

(The Garos value good name and prestige.) Any person who tries to tarnish their good name and prestige is heavily fined or severely beaten.

The dai is an old custom. At present, dai should be increased and fixed according to the value of the rupee. The customs and laws should be modified in keeping pace with the rapid economic and social changes.

### III

(The Wangala festival of the Garos is observed by almost all the sub-tribes. It is a thanksgiving ceremony to the deity (Mitde) who blesses foodgrains to mankind (Misi-A-pilpa-Saljong-Galapa).) The continuance of such festivals causes a heavy drain on the fast deteriorating economy of the Garos. Many have discontinued this ceremony due to the great economic hardship. But on the other hand, such cultural activities need reactivization and reinvigoration.

The mangona or post funeral ceremony is observed by all the Garo sub-tribes. But at present, the post funeral ceremony is fast disappearing. The custom of jaa ba'a or bringing back of the spirit of the dead to the house, still continues on a small scale among some of the sub-tribes of the Garos.

The offering of sacrifices to the various deities (Mitde) for diseases or calamities have practically vanished due to the spread of christianity, education and modern medicine. Instead of trying to remedy their sickness by offering sacrifices to the deity, they now go for modern medicines and indigenous medicinal herbs.

The practice of performing the prestigious Ganna ceremony has long gone out of use. The Ganna ceremony is no longer performed because of the economic factors and change of outlook. The institution of priesthood or Kamal still exists among the animists or songsareks. The practice of Sima nia or divination is still in existence, by those who use the indigenous medicines.

7. Shri Sotneng Sangma (Nokma) and Shri Debin Marak (Nokma), Village Sasatgre, West Garo Hills, 27.10.1980.

Various methods of divination are employed to detect the causes of sickness.

#### IV

Chonnika or insult is generally disliked by the Garos. Insulting a person without any reason or cause is viewed seriously and the guilty are often punished with dai. Indulging in backbiting (Mitaka) is also punished. The Garo customary laws and practices sanction punishment by dai or by corporal punishment.

The practice of head-hunting was put to an end by the British government. The Garos need more legal protection against all sorts of criminal acts committed on the poor and innocent people.

#### V

An engagement once made cannot be broken. The breach of such engagements is taken as an insult and heavy punishment is imposed on the offender. Marriage is arranged between the maharis of the girl and the boy. But the initiative comes always from the girl's side and never from the side of the boy.

Do-sia marriage is not practised among the Christians, but is still prevalent among the non-Christians. The Do-sia marriage is an original form of Garo marriage which needs preservation.

Cha-senga or staying in her lover's house is also still in vogue among all the sub-tribes irrespective of religion, although the Christians do not encourage such practices.

Nokkrom sala or the custom of adopting a girl as heiress is still in practice where the woman has no daughter. If a girl is adopted to inherit the property without the knowledge of the chra, the approval must be obtained in due course. At present, any person of the same clan is taken as the heir, who automatically becomes the nephew of the girl's father.

Nape Tua or sleep by entering is still prevalent among the tribe. A variety of reasons such as parents' opposition, different religious faiths and the presence of freedom in the society are mainly responsible for resorting to this kind of marriage. But this kind of marriage is not encouraged by the Garos, and they always try to settle the matter amicably at the initial stage.

Chame jika or baiting for a life partner is usually done during the festivals to win over a boy or a girl. This custom is not an invitation for the boy or the girl to indulge in any immoral act, but

is meant for the selection of the most suitable life partner for themselves.

Dokchapa or providing, an additional wife is not practised among the christians but the non-christians are still following this custom, though on a much smaller scale.

Jikgite ra-a or marrying a second wife is also not practiced by christians but the non-christians still observe this custom. But this practice is rare now due to the economic hardships.

Marriage by means of elopement is still in existence among the Garos, but such marriages are favoured. With the gradual decline of the dormitory system, the custom of Nokpante Gaa or of entering the bachelors' house and of the cha-dila or of inducing to eat is also fast disappearing.

The normal procedure for settling marriage is called a Chaware singa or negotiation with the boy's mahari for marriage. the marriage proposals must be made by the girl's parents, chra and the mahari first to the boy's parents and chra, even if the boy and the girl are already staying together (naprike tua). This custom of negotiating for marriage is still rigid and every Garo must follow this customary law and practice.

The custom of Rimbeka or leaving the girl in the boy's house is followed, when a boy is at fault and refuses to marry the girl or when his relatives object to their marriage. This custom of rimbeka or leaving the girl in the boy's house is still in practice when such cases occur.

The custom of Chaware kanga or pre-marital contract for a son-in-law who has to be the nephew of the father has become is very difficult proposition these days because of the rigid social changes among them.

The custom of Skabenga or capturing a son-in-law though common in the olden days is not traceable these days.

Monogamy is practiced by the Garos especially by Christians. Although bigamy was prevalent among the non-christians, this custom is becoming obsolete.

Polygamy existed among the Garo animists but with the progress of society it is being looked down upon even by them. Exogamous marriage is still strictly followed even to this day, at the level of the motherhood or ma-chong, although it is not so at the level of the chatchi or clan.

The Customary law and practices of the Garos allow a man or a woman to get divorced on proper grounds. It is the chra and the mahari who have the sole authority to decide on questions of divorce. Even if the husband and wife mutually agree to a divorce, the chra and the mahari must recognize such an agreement. The amount of dai originally fixed for divorce was Rs. 60 which is still continuing in some areas, whereas this amount has been raised to Rs. 120 in some other areas. It is therefore reasonable to suggest that the uniformity of rates for divorce should be fixed.

The Garó customary laws of marriage are regulated by the Law of A·kim. The A·kim law should be modified without changing the basic principles. At present more and more Garó women are marrying non-Garos and so it may be suggested that those Garó women should retain their surnames and culture, wherever they settle down.

In order to make the customary law operative for the Garó women married to non-Garos, and also to discourage such marriages, suitable enactment of laws must be passed to the effect that a Garó woman should retain her surname and culture. If not, she should be deprived of all rights to inherit the family property, and all the advantages that are due to her as a Garó girl. At the same time, the children of such marriages should be given their mother's surnames and culture. Only then should they be eligible to inherit the ancestral property of the mother's side and to receive all the benefits that are due to her as a Garó girl.

The Garó society being a matrilineal society, the right to inheritance to the family property goes to women and not to men.

It is the chra and mahari who finally settle disputes within the motherhood. Among the Garos, descent is traced through the mother in the sense that all the children adopt the surname of the mother. The real and legal owner of property is the woman. Man is the guardian of the family properties. The selection of the heiress is decided by the parents, and is approved by the chra and the mahari. In the selection of the basic principles of customary laws are usually followed. The chra, the parents and the mahari have the power to disinherit any one if they do not conduct themselves in a manner worthy of the heir and heiress. The properties can be given to the one who looks after the parents (Sima soa chakgipa) until their death. If a daughter, who is a non-heiress looks after her parents she too shall have the right to claim a portion of her parents,

property. But she cannot claim it if her mother or father went to her house for a short stay and died there. However, the decision of the chra and the mahari in all cases are final and binding.

The husband enjoys respect and honour in the family being the head and guardian of the house. Though he cannot own the property, he can enjoy the fruits of the property as long as he is in the family. The parents have the full authority and right to select any one of the daughters to be the heiress and get the approval of her chra. If the parents do not take the approval of her chra, the chra do not take any responsibility for any consequences that may befall within that family.

All landed property, like A-king lands, belongs to the particular motherhood. The Nokma of the A-king land who has been selected by the chra and the mahari is not expected to exploit resources for his own personal gains. The sale or mortgage of any property, movable or immovable, shall have to be approved by her own chra and the mahari. But there are certain types of A-king land which are purchased by the couple. Such A-king lands can be fully utilized by the couple, and the chra and the mahari have practically no voice over such A-king lands.

## VI

(In early days, the Garo youths were trained in many kinds of arts.

They were expected to know everything before their marriage, such as the art of building a house, the art of making household utensils, furniture etc.) These things were taught to them from early age so that they would be fully equipped to face life in the future. The art of using arms and weapons were also taught. All these arts and trainings were imparted to them in the bachelors, dormitory, not only to pass on their cultural techniques but also to mould their character and behaviour. This kind of training given to them inculcated in them a spirit of corporate life. Today, we find that due to lack of such technical trainings in the society, the most valuable aspects of their culture is fast disappearing.

In the old days, the Nokpante was also the centre of training in the arts of dancing and music. But at present, due to the gradual disappearance of these Nokpante institutions, the Garos are gradually forgetting their own valuable aspects of culture in dance and music, etc. Though the Nokpante system still exists today, it is only a

miniature. As such, it does not provide any incentives to develop their own art and culture. Therefore, the youth of today should be encouraged to learn the ancient arts and culture, only then can these be preserved for generations.

## VII

In ancient days, there were different categories of Nokmas among the Garos, except the A-king Nokma. All the other categories of Nokmas are fast disappearing due to the economic, social and religious impacts.

The word Nokma has become a common term at present. The real meaning of the word Nokma is mother of the house. (Nok=house and Ma=mother). The Nokma of the A-king land is the woman and never a man. But the institution of the Nokma of the village (headman) introduced by the British government is a man and never a woman. The Nokma of the A-king land is the guardian and custodian of the A-king land. The succession to such A-king land was hereditary in the past. But at present, the mahari select the rightful person. The chra and the mahari have the sole authority to select the A-king Nokma, whom they deem fit and proper.

Although the A-king Nokma has certain rights and duties in the maintenance of the A-king land, he has no absolute right over his own A-king land. The District Council through its indirect control further aggravates the fast deteriorating economic condition of the A-king Nokmas. Therefore the A-king Nokmas should be given some sort of maintenance allowance out of the revenues accrued from their own A-king land.

At the same time, some kind of reformation is needed so as to enable the Nokmas to maintain their status and position.

## VIII

The birth of a child in every family is a blessing from god. the women who do not have children are looked down upon. Some of the Garos consider the male child as a burden to the family because he goes away as son-in-law and does not support his parents after his marriage. Some of the parents, therefore, do not care to look after their sons' welfares and give them necessary education.

When a person dies, the parents or the relatives will send for the chra and the mahari of the deceased. The dead body shall have

to be laid (manguata) by the chra or the nearest relative of the deceased. The other persons do not touch the dead body. The custom of killing a slave for the deceased (mangkapata or memang nokkol wata) is no longer practised. At present, instead of killing a slave, a cow or a bull is killed. But then this custom of killing a cow or a bull is done only by those who can afford to do so. The phenomenon of becoming unconscious (sisimaka or siboka) immediately after the expiry of a person is still common among them. The Garos still believe in the psycho-physical change of a man or a woman to some other form of animal, like, tigers, snakes, etc.

Originally, the Garos cremated the dead bodies. But with the advent of the British and Christianity, the christians began to bury the dead and the non-christians also came under the influence of this practice. As a result, even among the non-christians, the dead are rarely cremated.

The grave cannot be and should not be dug by anyone until and unless the chra or the nearest relative has dug a hole on the ground first (chotika). Only one bamboo pole will have to be cut for carrying the dead body. At present, the funeral ceremony of the Garos is becoming more simple according to the changed circumstances. However, it is still compulsory to give meals to those relatives who come from far away villages to attend the funeral ceremony. The washing of hands, bathing and so on after the funeral is still observed.

Among the Chisak and the Atong sub-tribes of the Garos, the practices of post funeral ceremonies like Mangona or Delang so-a or Chugan ringa are still in vogue. The dead body resulting from an unnatural death is not taken inside the house. At the time of taking out the dead body either for burial or cremation, it is taken out of the house by placing the head first and never the legs. The practice of throwing away the belongings of the deceased along with the dead is still prevalent.

Nowadays, even though the parents of the bereaved family may like to spend whatever they have out of love for the departed soul, yet the chra may not allow them to do so.

The Garos have steadfastly adhered to the basic principles of customary laws and practices which have been in vogue throughout centuries, then all the social reformers, political scientists and nationalists should come together and make all-out efforts to reform them without discarding the basic elements of the custom. The

custom, if it is to be authoritative, must be hallowed and sanctioned by myth, for if the myth is rejected, the custom collapses. Therefore, the root of the custom should be best understood first and then only, it will be possible to bring about necessary reformation according to the needs of time. But reformation is a must. It is only when the customs and practices are renovated according to the changes of time and circumstance, they will have the authority over the people. It is because of the absence of reformation according to the changing needs of the time that various laws and practices such as those relating to marriage, inheritance and other customs are fast dying out. It is therefore urgently necessary that suitable action must be taken to bring those customs up-to-date so as to suit the changing needs of the time.

The Garó customs and traditions remained unchanged inspite of outside contacts with different people, races, customs and so on in great deal. The reasons for continuance of Garó tribes traditions and customs are mainly due to the fact that during the British period, tribal customs and practices were protected by the various acts and laws passed by the British administration in India.

During the British administration in India, a number of Rules and Regulations were passed. Regulation X of 1822 was passed on 19th September, 1822, with a view to promote the desirable object of reclaiming these tribes to habits of civilized life. It seems necessary that a special plan for the administration of justice, of a kind peculiar to their customs and prejudices, should be arranged and concerted with the headman. The Act XXII of 1869, which is called 'the Garó Hills Act, 1869'; the Regulation I of 1876, which is also known as, 'the Garó Hills Regulation of 1876', and subsequent Acts as passed by the Government of India such as Government of India Act, 1935 were passed in which the interests of the tribes are being protected.

After independence there has been a constitutional guarantee given in protecting the tribal customs, traditions and practices. Specific provisions has been made in the Indian Constitution under the Sixth Schedule. Under this provision an autonomous District Council was established for promotion and protection of these Customary Laws and Practices. Since then, Garó Hills District Council has been passing a number of laws on the customs and traditions, thereby protecting the tribal identity and preservation of culture. But, the law as passed by the Garó Hills Autonomous

District Council is operative in Garo Hills District only and not outside the District.

Garo population spread all over the North-Eastern States, like Assam, Nagaland, Tripura and even in Bangladesh. Garos, wherever they may be, continue to practice the same customary law and traditions with slight changes and local adoptions here and there. We also find in them that they continue to practice and follow the same principles by way of local adjustments as the situation demands. The Garos have not changed but have still adhered to their basic principles of their customs and traditions wherever they may be in spite of great outside influence and modern civilization.

However, there has been a great impact on the Garo Customary Laws that have brought about changes to a great extent which may be mainly accounted due to the spread of Christianity, education, economic conditions and outside contacts and civilizations.

### *Impact of the West*

(While referring to the various customs of the Garos, one will find that the customs and practices of the Garos are fast changing with the change of times.) As in other parts of India, Garo society also felt the impact of christianity and western civilizations at the beginning of about 19th century. The British annexation of Garo Hills and the subsequent works of waves of Christian Missionaries coupled with the introduction of English education had direct influence upon the social customs, traditional beliefs, customary laws and practices of the Garos. (Christianity is mainly responsible for direct effect on the Garo culture, customs, traditions and indigenous laws.) Spread of Christianity amongst the Garos, the very core of social customs, traditions, customary laws and practices remained unchanged, although some aspects of aged old Garo belief and worship was replaced by new religion. (The immediate result of such spread of new religion is that the traditional arts of the Garos like—music, dancing, crafts, house-building, legal procedures and so on have been replaced.)

Social offences and crimes are viewed as a serious offence and strong action is taken against such offenders. The penalty imposed on the offender was the act of 'Gro dinga' or get killed. But with the advent of British rule in Garo Hills and spread of christianity such killings were stopped. Christians believed in the act of forgiveness of sins committed whereas customary laws

demand putting an end to such offences through killings. British therefore introduced monetary benefit through imposition of 'dai' (compensation) systems according to the seriousness of offence.

Unfaithfulness on the part of either wife or husband outside marriage, such as adultery, rape and the like is considered as sin by the christians and are pardonable when one repents whereas the Garos consider such offence as serious acts of violation of social contract which can be attoned for only through imposition of punishments. Everything that is committed to offend or wrong others is to commit sin to christians whereas the Garos consider such offences as a social offence committed on a person or tribe who deserve corporal punishment or any other suitable punishment to be decided by the chra and the mahari in a melaa (meeting).

Some of the Customary Laws on 'Asimalja' and 'Dakmalja' are not observed strictly by the young people. But, some conservative sections of the Garos still observe strictly and rigidly these laws. The religious laws are not applicable to the christians except civil, criminal and penal laws which still hold good for all their sections. Most of the laws mentioned under 'Nima' are still being observed in the villages by the Garos.

The religious laws are also being observed by the non-christian Garos only whereas the christians feel no relevance to them. the traditional Garo socio-religious ceremonies offer sacrifice to particular concerned deities. Christians keep Sunday as the day of rest and worship whereas non-christians do not observe Sunday as a day of rest. The days of their rest are only during the village festivals.

Christianity has infringed upon the customary laws of marriage and divorce. Christianity does not allow polygamy whereas non-christians allow to have more than one wife. The traditional laws of A·kim holds good both for christians as well as non-christians. In matters of inheritance Nokkrom (heiress) and A·kim (husband of heiress) have been decided by the chra, pante and the mahari.

Chra and pante are respected by the non-christians whereas the christian youths of today do not bother to give their due respect to their elders. Negotiations for marriage through traditional means are still followed both by christians and non-christians. But marriage by capture is no longer followed by the christians. In marriage christians solemnized their marriage by traditional christian vows in

the church whereas the non-christians solemnized their marriage by sacrificing a fowl by the village priest in a simple ceremony of Do-sia.

Christian marriage is indispensable as a result of which christians do not recognize divorce. Christian marriage is governed by the Indian Christian Marriage Act, 1872 (Act No. XV of 1872) as adapted and passed by the Garo Hills District Council under the caption, 'The Garo Hills (Christian Marriage) Act' 1954' which received the assent of the Governor of Assam on the 6th April, 1955.

Laws of succession to property of the parents by a daughter and never a son are still continued and practiced. Negotiation and initiative for marriage has to come from the girl's side and not from the boy's side. Children still continue to take title from their mother's side and not from the father.

Family disputes, quarrels and so on are still settled at a joint meeting of the chra and mahari of both the parties (husband and wife). The avuncular authority and his importance in a family is still felt in settlement of disputes and control of children.

The institution of Nokmaship still persists. Succession to the A-king land is subject to the Customary Laws and Practices of inheritance. Land and other property dispute are settled in law courts with the introduction of modern legal systems.

In Garo society neither the impact of Christianity nor education nor new agricultural techniques can bring about a change upon the kinship relations.

The marriage customs and laws of the Garos are based on matrilineal system, according to which the descent of an individual, either a man or a woman, is always traced from the mother. A very distinct matriarchial society and matrilineal system with unwritten but tacitly understood codes of customary laws, usages and practices concomittant to holy matriarchism is practised. The Garos firmly believed that the basic condition for all freedom of social thought and action is the commonly recognized customary laws and well ordered community of blood.

Marriage customs and laws of the Garos are regulated by the two most important laws of exogamy and A-kim. Due to the very existence of these two laws, no marriage is contracted between the two persons belonging to same motherhood, for in doing so, they

would be guilty of two sins 'ma-dong' and 'Asimalja' which are regarded as grave crimes and acts of incest.

Under the changing times in the present days of civilization and outside influence, scores of women are being threatened with losing their original identities through indiscriminate marriages with men outside their own tribe. The result of marrying men of outside their own tribe is that the names and surnames are taken from the father's side. Today, we find that a large number of people from outside have entered Garó Hills and thus jeopardised the social and cultural life of the Garos and seriously disturbed the social relation among the Garó people. In order to protect the tribes from further social exploitations and losing tribal identities, today, an enactment of comprehensive law covering all matters relating to lineages, the inheritance of self-acquired property and so on is immediately called for.

Trial of outsiders according to the Garó customs and traditions is required in order to restrict some sort of unwanted molestations of Garó women or social offences by the outsiders on the innocent tribal people.

It is true that the old order must change, as it indeed has changed and is changing daily, yielding place to the new, but Garos in their enthusiasm to adopt new ways must not and indeed cannot afford to loose sight of those of their very own sound and practical customs and traditions which have made them what they are today and which are more suited to their peculiar needs.

Garos should build upon their traditional heritage and genius and there should be no imposition of any kind on them. S.M. Dubey is also of the opinion that the decay of this institution (custom) has resulted in a social, cultural and in many tribes an architectural loss.

Nokpante (Bachelors' Dormitory) which are inescapable institution through which their traditional life and spirit was perpetuated in a traditional Garó village are fast disappearing in the christian villages. And with the dying of Nokpante systems, the skills of art in their cultural pattern along with its importance are vainshing along with it.

Chrisitans do not allow to cremate the dead, whereas the non-christians cremate their dead. But due to the christian influence even the non-christians do not cremate their dead any more.

The non-christians would offer rice-beer on arrival of outsider or any member of the family to honour and respect their guest in the house whereas christians have substituted tea for rice-beer in the modern society.

Garó customs and traditions are numerous and intricate. The variety of customs and traditions exist in different parts of districts, States and country with minor local adaptations. But all these customs are fast changing with the change of times and with the improvement of communications and the spread of education.

We find that the Garos have adjusted themselves to the challenges and modern civilizations, preserving at the same time the basic principles and the valuable aspects of their customs' traditions and practices. Christianity and education have brought about changes in some aspects of Garó customary laws and practices as well as social customs but the basic principle of customary laws remain unchanged.

The subject matter is the study of the contemporary Garó customs, traditions, laws and practices of the Garos through the past. Garó community is now the victim of hesitations. And it will not be wrong here to say that the Garos are neither Garos nor christians and are in grievance. People has been persuaded to give up the great heritage of song and dance under the cover of religion.

Christianity has brought about consciousness amongst the Garos.

Nokmas and Laskers tried all cases of offence that are connected with customary laws but in these days we find that minor or trifle cases are taken to law courts disregarding their own traditional way of settling the case. This is due to the fact that today people depended on their own learning and knowledge considering customary law incompetent and ineffective.

The economic conditions of the people has greatly affected the customs, traditions, social and cultural activities of the Garos. During the pre-British periods, the economy of the people was safe. Agricultural production was plenty and there did not exist any hunger or thirst. At present, the economic backwardness of the community has created all these. Even that the Garos do not change in their basic culture of generosity and hospitality.

The Garo Hills Autonomous District (Social Customs and practices) Act, 1954, which received the assent of the Governor of Assam on the 18th April, 1955; Sec. 3 says that, 'the practice of imposing a 'Dai' and a fine on the mahari for breach of any Garo social customs by a member of that mahari shall be abolished'.

Although, the payment of 'dai' imposed on a person for breach of social custom, the law allows offended party to approach and appeal to the competent court under section 126(3) of Cr.P.C. 1973 (Act. No. 2 of 1974) which says that, 'the court is dealing with applications under section 125 shall have power to make such order as to costs as may be just. When the offended party shall does apply to the competent court for maintenance allowance, she shall have the right to claim for subsistence allowance under section 125 of Cr.P.C.

However, in the present time, since the provision of Cr.P.C. is made applicable to the tribal areas the question of amount to be paid as, 'Dai' or 'fine' shall be decided by the competent court according to the nature of offence.

The present practice of imposition of 'Dai' is still prevalent amongst the Garos though the Garo Hills Autonomous District (Social Customs and Practices) Act, 1954 (Act. No. III of 1955), has abolished the payment of 'Dai' which was normally imposed on the whole clan people because of the commission of certain offence by one of the clan people. However, the provisions of the said Act do not in any way prevent the voluntary contribution towards the payment of such 'Dai'.

*Case law:* Nokdi mechik versus Nanggan marak and other under Civil Revision, in a judgement against the application of Nokdi mechik for compensation before the ADM alleging that Nanggan marak and others had cut an old tree standing upon his property says that, 'the learned ADM 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.

Since time immemorial, the customary practice of the Garos in the payment of 'Dai' or compensation for the lost or damaged caused by any party. (C.RVn. No. 116 (H) of 1949 dt. 10.3.1950.



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