

The Matrilineal Society

Before proceeding to a consideration of specific legal topics connected with tribal law, it is necessary to mention two fundamental sociological propositions. Firstly that both the societies with which this study is concerned are matrilineal and secondly that both are, female-oriented.

The first proposition implies that succession is traced through the female; that relationship for certain other purposes (*e.g.* endogamy and exogamy) is also traced through the female; that adoption is principally to the mother (and only secondarily to the father); and that there is no status of illegitimacy in such a society. These are some of the salient characteristics mentioned by way of illustrations. However, this would not be an exhaustive statement of the position. As stated in the second proposition put forth above, the societies are female-oriented. Property rights are given to females in preference to males. Since the main owners of property are females (even though the administration of the property is by males), it follows that the litigation about property is mostly contested between females and the question whether a particular heir is, or is not, qualified to inherit is mostly litigated with reference to females, rather than with reference to males.

Pattern of residence

The two propositions set out above will explain the practice followed in most matrilineal societies—of the husband going to the wife's place of residence—though this is not a universal practice. This practice, it is needless to say, offers a contrast to the usual pattern amongst Hindus whereunder the female on marriage becomes a member of the family of her husband, acquiring a new *gotra*¹.

1. Bhupendra Nath Dutta, *The Hindu Law of Inheritance: An Anthropological Study* 53 (1957).

The female heiress

Connected with this practice is the importance shown to the female heiress (usually, the youngest daughter), called the *nokna* amongst the Garos and the *ka khadduh* amongst the Khasis. Both these are basic concepts and institutions in the respective societies and it is impossible, or at least difficult to follow, understand and absorb the law of inheritance and the law of marriage amongst the two communities without an adequate grasp of the central concepts of *nokna* and *khadduh*. In fact the entire scheme of inheritance revolves around them. Property is principally vested in the *nokna* or *khadduh*, as the case may be. If there is none (so that temporarily the property is with some other person), the property must always await its ultimate vesting in some person who is the *nokna* or *khadduh*. Property rights never permanently settle down except in the daughter (or the youngest daughter) and are in constant search of such a female. What has been said above is not intended to present categorical legal propositions in a precise form. But without these central propositions no one can absorb the tribal law of these two societies.

Matrilineal societies and mother-right

It is, of course, well known that the matrilineal society in India is not confined to these two tribes. Many aboriginals of Malabar, Chhota Nagpur and Naga Hills (and certain other areas) also follow the system of mother-right². A very learned study, dealing with mother-right as prevalent in all countries of the world, (including India) was written by Ehrenfels and published some years ago in the Osmania University series and the interested reader would find in it much useful material.³ According to Hartland, "mother-right everywhere precedes father-right and the reckoning of descent in (the) modern civilised fashion through both parents"⁴.

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2. Generally as to the matrilineal system, see Kapadia, *Marriage and Family in India*, (1964).
 3. Ehrenfels, *Mother-right in India* (1941).
 4. E. S. Hartland, *Primitive Paternity*, cited by Gemini Paul, in "The place of khadduh" *Vanyajati* 82-83 (1956).