

Khasi Marriage, Divorce, Maintenance and Conjugal Residence

Marriage

The rule of exogamy

The Khasis are an exogamous group. Marriage of members inside the same clan is prohibited and is considered a *sang* (taboo). On death, the bones of such persons cannot be buried along with the other members of the clan. Such persons lose the right to inherit properties and are socially ostracised, even amongst the educated class.¹ In the past, commission of this act was punishable with death or excommunication with the heads of the parties shaved in a peculiar manner. Now, however, the reaction against such a marriage is not so strong, though it is still looked down upon and considered as the "worst kind of sin". Chie Nakane², during her study of Garos and Khasis, came across a couple who had violated this rule. Though the couple had different *kur* names, both the *kurs* were segments of one common *kur*. The couple were not allowed to have their house inside the village.

Prohibited relationships

As the Khasis are matrilineal, descent through a common ancestress is the test for exogamy. There are certain relationships within which marriage is prohibited. The following are the prohibited relationships for this purpose :—

A Khasi cannot marry a girl if she is—
(a) daughter of his father's brother,

1. An educated young Khasi girl was, in an interview asked whether she would marry a boy of the same *kur* (clan) if she happened to fall in love with him. She replied that no Khasi boy and girl would develop an intimate friendship unless they were sure that there is no clan relationship.
2. Chie Nakane, *Garos & Khasis* 119 (1967).

- (b) mother or sister of his father,
- (c) wife of his maternal uncle or his mother or sister,
- (d) wife of his paternal uncle,
- (e) mother-in-law of his paternal uncle,
- (f) his mother-in-law or her sister, or
- (g) sister of his living divorced wife.³

Cantlie⁴ refers to a daughter of father's paternal uncle also as one within the prohibited relationships.

Cross-cousin marriages

Marriage with the mother's brother's daughter during the lifetime of the mother's brother is not permissible.

Marriage with the daughter of a father's sister, though not looked upon with favour, is permissible after the death of the father. Marriage between those related to the father within three generations is avoided. This clearly indicates that the Khasis (unlike the Garos) do not give preference to cross-cousin marriages. Chie Nakane, in her study, has noticed a few cross-cousin marriages, e.g., a man marrying a woman who is the sister of his brother's wife,⁵ but these are not viewed with favour.

Marriage ceremonies

Contrary to the popular misconception, marriage amongst the Khasis is not a purely civil contract; elaborate religious ceremonies accompany its celebration, including the invocation of various goddesses and gods and the performance of sacrifices.

The main ceremonies accompanying marriage are—

- (i) *Pynhiar-sunjaat* [putting on of a ring and certain other elaborate ceremonies];
- (ii) *Lamdoh* [here the ring is not put, but the other ceremonies as in (i) above are performed]; and
- (iii) *Iadih-kiad* [partaking of liquor].⁶

The last-mentioned ceremony is simple and less expensive and is resorted to by the poorer classes only.

Preliminary scrutiny

Before the parties finally decide upon the marriage they make sure that there is no obstacle to the alliance because of clan relationship, or

3. Khongphai, *Principles of Khasi Law* 37 (1974).

4. Cantlie, *Notes on Khasi Law* 76 (1974-reprint).

5. *Supra* note 2 at 118.

6. Gurdon, *The Khasis* 127 (1914).

other bars. Then there is a declaration from both the sides. This is known as *kren knii*. The maternal uncles or some other elders from both the families make a declaration before witnesses and friends from the mother's side and the father's side, *u kur u kha*, to this effect.

Engagement ceremony

In a regular marriage, engagement generally precedes the marriage. The boy's uncle goes to the uncle of the girl and asks him whether they have any objection to the proposal. The first visit is just a preliminary meeting. Before the marriage ceremony, there is an engagement ceremony wherein the girl binds a thread to the boy known as a *teh-sai-iong*. This is also known as the thread ceremony or *teh-ktien* (literally meaning, *teh* to bind and *ktien*, to promise, *i.e.*, to bind with words). Comparatively well-off persons normally exchange rings. The significance of this function is that people should know that the boy is not acting merely on his own initiative or against the wishes of his relations. After this engagement ceremony, it is normally expected that the boy and girl do not mix up with each other until the marriage.

Marriage

On the date of marriage the bridegroom's party, ceremonially dressed up along with a mediator, *u ksiang*, proceeds to the bride's place. Midway, the two representatives from the side of the boy and the girl meet and exchange a bag of betel nuts, known as *larong*, which is specially woven for the occasion out of pine-apple leaves. Then they all come to the girl's house. The representative of the boy first enters the gate and pronounces that he has brought the boy, who is without blemish *etc.* There is an exchange of dialogue and the marriage contract is then read out. Deities are invoked and sacrifices of a fowl or pig, depending on the means of the parties, are performed. At some places, the sacrifices of a pig and the libation of liquor are essential features of the marriage ceremony. The boy then leaves for his home, without the bride. After three days, he takes his bride to his mother. Before the bride goes to her mother-in-law, she will generally visit the paternal grand-mother as a mark of thanks to her for the father who has brought her up.

Custom in Jowai

In Jowai, the boy along with his party proceeds to the bride's house where he is warmly welcomed. His feet are washed and anointed with oil. There is an exchange of betel followed by a feast. At this time the bride is not seated with the groom, but stays in the other room. The ceremony starts with the opening of the marriage contract, followed by the pouring of libations *etc.* It is customary for the bridegroom to bring

along with him a mat on which he is to spend the night with his wife. None except his mother can touch the mat.

Monogamy

Khasi marriages are, as a rule, monogamous, which is in consonance with their matrilineal set up. Nevertheless, polygamy is not absolutely unknown. There are some instances of a man making an informal alliance with another woman. The first wife is, in such cases, the real wife, *ka tnga trai*, and the second wife is the "stolen wife", *ka tnga trai tuh*.⁷ There need not be any elaborate marriage ceremonies in the latter case. Their children have no rights over the self-acquired property of the father while he lived in the house of the first wife.⁸

Christian marriage

Khasis who are Christians, marry under the Indian Christian Marriage Act, 1872 (Act 15 of 1872), which has been adopted by the District Council, United Khasi & Jaintia Hills District.⁹ With certain adaptations, the Act extends to the whole of the United Khasi-Jaintia Hills District which were known as the "Khasi States" before the commencement of the Constitution. It is needless to state that the Act does not permit polygamy.

Divorce

Grounds

Divorce is extra-judicially permissible among the Khasis, though rare. There is no social stigma attached to it. The usual grounds of divorce are—(a) barrenness, (b) failure to live happily or dissolute habits, (c) adultery, (d) lunacy, (e) incurable disease and unsound mind, (f) sodomy or bestiality, (g) desertion, and (h) imprisonment for a period not less than a year.

Divorce can be obtained by mutual consent too. Divorce during the pregnancy of the wife is viewed with disfavour, though there is no legal sanction against it.

Formalities for extra-judicial divorce

The procedure for obtaining divorce extra-judicially is very simple under customary law. The formalities required by custom present a variety.

(i) According to one form of customary divorce, the husband and

7. Cantlie, *supra* note 4 at 75.

8. *Ibid*

9. The United Khasi and Jaintia Hills District Christian Marriage Act, 1954.

wife both take five *cowries* (shells) in their hands. The wife hands over her *cowries* to the husband, who then gives these, along with his five, to the wife. She returns them to the husband and he throws them on the ground. Sometimes, the procedure is simpler still. A betel leaf is torn in two before some witnesses. This signifies divorce. After these ceremonies there is a public declaration. A crier, *U nongpyrata*, makes a proclamation by beat of drums. Generally this is done at night, the idea being that every body should hear it.

(ii) Amongst the Syntengs (Jaintias) a sum of 7 annas 2 paise (*i.e.* about fifty *naya paise* now) is to be deposited in the *doloi's* office. Out of this, seven annas go to the *doloi* and two paise are kept for the *puja etc.* This is, however, only symbolic. In the Jowai doloiship, divorce takes place in the presence of the *basan*.

(iii) Amongst the traditional Pnars, a wife can forcibly take a divorce from her unwilling husband. She will just throw on him five pieces of dice, *cowries*, called *pasbe*, and she is divorced. This is known as *dat-san-shyien* (*dat*=throw, *san*=five and *shyien*=pieces, thus meaning "to throw five pieces"). This form is the privilege of the wife alone, but is not favourably viewed. A husband may liberate himself from his wife who is not willing to divorce him by tearing off a betel leaf and making a proclamation. When one of the parties is not a willing party to the divorce, the other has to give him or her some sort of compensation, *ka-mynrain*, which is assessed by the village elders. The amount varies from village to village. After divorce the husband leaves the wife's home. He has to leave everything, including the house which he built and children.

Judicial divorce amongst non-Christian Khasis is unknown. This is probably due to the fact that their customs are simple in the matter of divorce and moreover the elders play an important role in settling the affairs. Christian parties are governed by the Indian Divorce Act, 1869 (which also has been adopted by the District Council)¹⁰ or by the Special Marriage Act, 1954 (if the marriage is governed by this Act).

Re-marriage after divorce or on death of spouse

Re-marriage of a divorcee, a widow or widower is permissible. The widow, however, has to wait for a period of one year before she re-marries. Under the Khasi system, the wife often performs the cremation ceremonies of her husband. She keeps her husband's bones for some time and later returns them to his mother. So long as the bones are with the widow, she cannot re-marry. Violation of this custom is considered to be an act of fornication. Now-a-days, however, the custom is not so strictly observed, though its violation is not looked upon with favour, either.

10. The United Khasi and Jaintia Hills District Divorce Act, 1955.

A widower may marry his deceased wife's sister and, in fact, this practice is quite in vogue (where the deceased wife is not the heiress), since re-marrying any other woman would mean that he should leave his first house along with bag and baggage and children. A widower who had been married to an heiress usually returns to his own youngest sister's house, since he is not allowed to marry the elder sister of the deceased wife who was an heiress. But the case is different in the case of a widower whose wife was not the heiress. In such a case, he quite often stays with his children, unless he plans to marry another woman. If he marries his wife's younger sister, he has the right to stay on in the family. A divorced couple can re-marry without going through the formalities and detailed ceremonies of marriage. Both Gurdon¹¹ and Cantlie¹² have stated that a couple once divorced cannot re-marry each other. Field studies, however, reveal that this may not be correct. A number of Khasi people from all strata of society were interviewed and none of them is aware of any such custom. Such re-marriages are rather encouraged and viewed with favour. In Mawphlong (20 miles from Shillong) a man having four children divorced his wife and married another. After some time, he left the second wife and returned to the first wife. People feel that it is better if such couple re-unite, because if they marry anyone else, their children would suffer at the hands of the step parent.

Maintenance

Maintenance claim by a non-Christian wife against the husband

Regarding a non-Christian Khasi wife's right to claim maintenance from her husband for herself and her children in the event of the husband deserting her, there is a difference of opinion. The orthodox view is that it is a *sang* (i.e. taboo) under the customary law to proceed in a court of law against the father for maintenance of their children. In a decision¹³ of the Khasi panchayat consisting of ten members, the sentiments of the Khasi community in this respect were dealt with in detail. A wife had made a petition to the panchayat against the husband, claiming maintenance for herself and her seven children. The panchayat explained to the parties that the filio-parental feeling would cease to exist if there should be a case and oath taking, and secondly, that the Khasi feeling was against it and scorned the mother or father or children who set up a case one against the other (whether in court or *durbar* or *siem's* court or anywhere else). The following observations were made by the panchayat.

11. *Supra* note 6 at 79.

12. *Supra* note 4 at 77.

13. *Ka Sostbon Jyrwa v. U. Hodri Singh Myntri*, Misc. Pol. case No. 4 (S) of 1938 in the court of the D. C., Khasi and Jaintia Hills, Shillong.

The *sang* (taboo) amongst the Khasis is not a superficial thing but is far reaching—even as far as life and death question; it is not personal but affects the *kur* and the *jaid* (clan). The children running a father in, are considered to be causing a taboo which cuts off connection with the father and *nonkha* (relatives and clan of the father), they can have no further part in the cremation and last rites of the father and his relatives. For these reasons, there was never a maintenance case amongst the Khasis. A Khasi reckons that the children who are the representatives of the father (Thawlang) are very sacred and holds that reckoning in reverence, although the father may have left the wife and children, they seldom seek redress in court; they leave to him whatever he thinks best for his children A Khasi while living with his wife and children earns for them; all what he gets remains with them, and when leaving, he leaves everything behind.

As to the facts, the members of the panchayat were convinced that during the years the husband was living with his wife, he earned for her and the house. Rice-fields constructed and improved at that time were part and parcel of his earnings too. Apart from the above observations, it was also on evidence that the wife (*i.e.* the petitioner) had her own source of income and also properties acquired from a mixed earning with her husband, to which the children have a rightful claim. The children therefore had no right to claim maintenance from the father.

This ruling of the panchayat was upheld in appeal, by the Deputy Commissioner, Khasi & Jaintia Hills on 26th September, 1938. According to him—

I approve the findings of the Panchayat who have come to a careful decision after full inquiry. It appears to me to be probable that Ka Sosibon living in Myllem State and married to a *myntri* of the State must have become a subject of the State and that a case under the Criminal Procedure Code, which does not apply to subjects of the State, is not in order. Under Khasi law, the findings of the Panchayat are obviously correct and even under the Criminal Procedure Code, they have not come to a finding that maintenance is to be given.

Maintenance claim by a Christian wife

The case of a Christian Khasi is, however, different, as is apparent from many judicial decisions on the subject illustrating the difference. Thus, in one case¹⁴ decided in 1967, relating to Christian parties the wife

14. *Ka Memjulet Passah v. Adelbert Lallo*, C. R. Misc. Case No. 1 of 1967 in the court of the S.D.M. at Jowai.

had made an application under section 488 of the Code of Criminal Procedure, 1898, claiming maintenance for her children. The court held that it was a duty of the father to maintain his children when he had the means to do so. An order for maintenance was accordingly passed. In another case¹⁵—it was held that a Christian wife could claim maintenance against her husband under section 488, if she proved neglect on his part. The Code of Criminal Procedure is, no doubt, not applicable in this area in form, but that does not prevent the court from allowing such applications under the spirit of the Code.

Conjugal residence

Amongst the Khasis, after marriage, it is the husband who goes and lives with the wife at the house of the mother-in-law. The rationale underlying this practice is that patri-local residence works great hardship on the married woman. The girl, being very shy, is at times faced with very embarrassing situations in her in-law's residence. A Khasi headmaster of a Christian High School at Shillong narrated his own plight after marriage.¹⁶ In the house of his mother-in-law, he was reluctant and shy to ask for even a cup of tea. If a girl were to be made to stay in the house of her mother-in-law, she would have been placed in a still more difficult situation. This seems to be the implicit assumption underlying the pattern of conjugal residence at the wife's place amongst the Khasis. However, the custom of the husband staying at the wife's place is gradually waning as regards daughters other than the youngest. In the case of the youngest daughter (who is normally the sole heiress), she must stay at her parents house and the husband must join her there. The other daughters generally establish a separate home after the birth of a child or two.

Amongst the Jaintias, the normal pattern of residence is duo-local. The husband stays with his own parents, but visits the wife at her parent's house. His earnings go to his mother's family. Some of the orthodox Jaintia husbands are reluctant even to eat or drink from the mother-in-law's house. They feel that as they do not give any part of their earnings to the family of the mother-in-law, they have no right to take anything from that family.

The above general statement should, however, be taken as subject to two qualifications—

- (i) Christian Jaintias follow the system of matri-local residence, and, as a rule, the husband lives with the wife at the latter's house.

15. *Rosa Flora Ryndem v. KLIK Rynniewta*, Cr. Revn. No. 133 of 1968 (High Court).

16. Informal interview.

- (ii) Even amongst non-Christian Jaintias, owing to practical difficulties that might arise where the spouses belong to two different villages, the pattern of duo-local residence is giving way to the system of the husband living at the wife's place or (with growing urbanisation) the wife may even follow the husband to his place of work.